

ORDINANCE NO. 2243

AN ORDINANCE OF THE CITY OF DAVIS AMENDING ARTICLE 15.14 OF CHAPTER 15 OF THE DAVIS MUNICIPAL CODE ESTABLISHING A PARK MAINTENANCE TAX TO FUND MAINTENANCE OF PARKS, STREET TREES, GREENBELTS, BIKE PATHS, MEDIANS, PUBLIC LANDSCAPING, URBAN WILDLIFE AND HABITAT, SWIMMING POOLS, AND RECREATIONAL FACILITIES SUBJECT TO THE APPROVAL OF THE VOTERS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAVIS, as follows:

Section 1. Article 15.14 of Chapter 15 of the Davis City Code is hereby amended to read as follows:

ARTICLE 15.14. PARK MAINTENANCE TAX

15.14.010. Findings.

The Park Maintenance Tax currently provides funding to supplement the General Fund for the maintenance of community parks, greenbelts, open space, street lighting, swimming pools, and related public facilities. The Park Maintenance Tax, which was approved by the voters in 1998 and again in 2002, will expire in June of 2006. This special tax, if approved by an affirmative vote of two-thirds of Davis voters, will continue the Park Maintenance Tax for an additional six years to provide funding for the maintenance of these facilities and amenities.

Our parks and greenbelts reflect the very character of Davis and are instrumental in making Davis the type of community that its citizens appreciate and support. The City Council strongly believes that it is in the public interest to continue funding maintenance of the parks, greenbelts, open space, street lighting, swimming pools, and public facilities. The special tax levied herein, if approved by a two-thirds vote of the voters, will continue the existing Park Maintenance Tax. This tax, if approved, will also provide for revenue which may be used to maintain and operate property owned by the Davis Joint Unified School District or other public agencies so long as the property is available, on a joint use basis, for use by the residents of the City for park, open space, and recreational uses.

15.14.020. Legal Authority.

This special tax is levied under each of the following legal authorities: Government Code section 37100.5, which authorizes general law cities to levy any tax that may be levied by charter cities, subject to voter approval; and Government Code section 50075 through section 50077, which authorizes cities to impose special taxes. This tax is a special tax authorized under Article 13A, section 4 of the California Constitution and Proposition 218. This tax is an excise tax and is based, to the extent practicable, upon the use to which a property is put and the benefit that the use of property receives from the public facilities supported by this tax. This tax is based, among

other things, on the benefit that different land uses of property receive from the availability of properly maintained parks, open space, greenbelts, medians, public facilities, and public lighting. This tax is not a property tax; it is not based on the status of ownership of property; nor is it based on the value of property.

15.14.030. Definitions.

The following terms shall have the following definitions when used in this article:

"Assessor's parcel" or "parcel" means a lot or parcel shown in an assessor's parcel map with an assigned assessor's parcel number.

"Assessor's parcel map" means an official map of the county assessor of the county of Yolo designating parcels by assessor's parcel number.

"City" means the city of Davis as its jurisdictional boundaries exist on July 1st of each year that this tax is in effect.

"Commercial property" means all parcels that are used for nonresidential land uses that do not classify the parcel as industrial property or day care property, as defined below.

"Common area" means a separate legal or assessor's parcel owned by a common interest development association or as tenants in common by the owners of separate interests in a common interest development provided that the common area: (1) in the case of residential property, cannot be used as an independent residential dwelling unit; or (2) in the case of commercial or industrial property is not improved building space.

"Day care property" means all property that is used as a commercially operated day care center and is not used as a residence.

"Developed property" means, in any fiscal year, all parcels of taxable property with a structure that has been cleared for occupancy before March 1st of the prior fiscal year. For purposes of levying the special tax, each parcel of developed property shall be assigned to one of the land use classes identified in Table 1 below.

"Fiscal year" means the period starting on July 1 and ending the following June 30th.

"Group living property" means all parcels of developed property that have been issued conditional use permits from the city's planning division for a group living use.

"Improved building space" means the greater of (i) gross building area as shown on building permits issued for any property, or (ii) gross building area as measured or determined by an engineer retained by the city.

"Industrial property" shall generally include but not be limited to, all parcels of developed property with a building or structure that is used for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations, as classified by the city's planning division.

"Land use class" means any one of the six classes listed in Table 1 below.

"Maximum special tax" means the maximum special tax, determined in accordance with Section 15.14.050, that can be levied by the City Council in any fiscal year.

"Multifamily residential property" means all parcels of developed property with a residential structure or structures consisting of five or more residential units on a single parcel.

"Public improvements" means those facilities, improvements, and amenities that will be constructed, installed, operated, serviced, maintained, and repaired from proceeds of the special tax and shall include, but not be limited to, the following: public lighting, landscaping, parks, public areas, recreational facilities, open space, and bike trails.

"Public property" means property owned by a public agency, public rights-of-way, unoccupied public utility property and property encumbered with a public or utility easement that makes impractical utilization of the property for other than the public or utility purpose set forth in the easement.

"Single-family residential property" means all parcels of developed property with a residential structure or structures consisting of less than five residential units on a single parcel.

"Special tax" means that tax levied pursuant to application of the special tax formula set forth below to pay for the construction, installation, operation, servicing, maintenance, and repair of the public improvements.

"Taxable property" means all assessor's parcels within the city as the boundaries of the city exist on July 1st of each year which are not exempt from the special tax pursuant to law or section 15.14.090 below.

"Vacant land" means all parcels of taxable property that have either no structures or a structure or structures that have not been cleared for occupancy.

15.14.040. Park Maintenance Tax.

a. If approved by the voters, commencing July 1, 2006 for fiscal year 2006-2007, the city shall continue collecting funding for parks, open space, public lighting and related public facilities in the form of a special park tax in the manner and at the rates set forth herein.

1. Developed Property. The maximum special tax for all parcels of developed property shall be determined by reference to Table 1 below:

Table 1	Maximum Special Tax Rates	
Land Use Class	Description	Maximum Special Tax
1	Single-family residential	\$49.00 per unit
2	Multifamily residential	\$49.00 per unit
3	Group living	\$20.00 per resident
4	Commercial	\$40.00 per 1,000 square feet of Improved Building Space up to a maximum of 10,000 square feet
5	Industrial	\$12.80 per employee up to a maximum of 30 employees
6	Day care	\$14.30 per 1,000 square feet of Improved Building Space up to a maximum of 10,000 square feet

2. Vacant Land. The maximum special tax rate for vacant land shall be forty-nine dollars per assessor's parcel.

b. Method of Apportionment of the Special Tax.

1. For fiscal year 2006-2007, the City shall levy the special tax at the maximum tax rates set forth above. For fiscal years 2007-2008 and each fiscal year thereafter, the City Council shall set the actual tax rate for the applicable fiscal year, not to exceed the maximum tax rates set forth above, and the special tax shall be levied at the amount set by the City Council.

2. The special tax shall be levied on each parcel of land in the amount determined by reference to this Section 15.14.040:

A. On each parcel of taxable property in Land Use Classes 1 through 6, inclusive.

B. If there is more than one land use class on a parcel, the special tax shall be determined by separately applying the appropriate special tax for each land use class on the parcel and levying the sum total of the combined special taxes.

15.14.050. Collection.

The park maintenance tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes and shall be subject to the same penalties for non-payment. If necessary to meet financial obligations or if it becomes more cost-efficient as determined by the City Council, the City may collect the park maintenance tax in the same manner and at the same time as City taxes, fees and/or charges provided that the total annual tax imposed shall not exceed the maximum amounts set forth in this article.

15.14.060. No Annual Adjustment of Tax Rate

The tax rates set forth in this article shall be the maximum allowable tax rates permitted unless modified or changed by a further vote of the electorate of the City. There shall be no cost of living or COLA permitted.

15.14.070. Limitation on Disposition of Revenue.

Revenues collected under the provisions of this article shall be deposited in a special fund called the park maintenance special tax fund and shall be used only for the operation and maintenance of landscaping, park, open space, median, greenbelt, swimming pools, recreational and public facility and public lighting improvements, within the City and for the incidental expenses incurred in the administration of this tax, including, but not limited to the cost of elections, and the cost of collection. Revenues may be used to operate and maintain property owned by the Davis Joint Unified School District or other public agencies so long as the property so maintained is available for use by the residents of the City for the purposes set forth herein.

15.14.080. Exemptions.

- a. Public Property. No special tax shall be levied against public property.
- b. Low Income Exemption. To avoid undue hardship, the City Council shall continue the existing low-income refund program subject to such terms and conditions as the City Council may, from time to time, determine.
- c. Common Areas. No special tax shall be levied against common areas.

15.14.090. Effective Date; Renewal Provision.

- a. This article shall take effect immediately upon its approval by a two-thirds vote of the voters voting in the election called to approve the ordinance.
- b. If an extension or re-authorization of this article is approved by the voters of the City at an election called for that purpose by or on June 30, 2012, and every six years thereafter, this article shall be extended or re-authorized. If this article is not so extended or re-authorized by the voters, this article shall no longer be in effect.
- c. It is the current intent of the City Council to replace this Park Maintenance Tax with another type of revenue measure. In the event that another type of revenue measure is

approved by the voters prior to the expiration of the Park Maintenance Tax, and the ordinance that implements the new revenue measure declares that it shall replace or supersede this Park Maintenance Tax, the city shall cease collecting this Park Maintenance Tax consistent with the provisions of the replacement measure as approved by the voters.

15.14.100. Appeals.

The imposition of this tax and/or amount of the tax imposed based on the use of property may be appealed to the City Council under such procedures as the council shall, by ordinance, adopt. The City Council may modify the appeals process from time to time in order to facilitate the hearing and resolution of appeals.

15.14.110. Severability.

If any sentence, clause, article, section, subsection, phrase or portion of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The voters of the City hereby declare that they would have adopted the remainder of this Ordinance, including each sentence, clause, article, section, subsection, phrase or portion of this Ordinance, irrespective of the invalidity of any other sentence clause, article, section, subsection, phrase or portion of this ordinance.

INTRODUCED ON JANUARY 17, 2006 and PASSED AND ADOPTED by the City Council of the City of Davis on February 7, 2006, by the following vote:

AYES: GREENWALD,PUNTILLO, SAYLOR, SOUSA, ASMUNDSON

NOES: NONE

ABSENT: NONE

Ruth Asmundson, Mayor

ATTEST:

Margaret Roberts, CMC
City Clerk