

ORDINANCE NO. 2033

AN ORDINANCE OF THE CITY OF DAVIS ADDING  
ARTICLE 15.16 OF CHAPTER 15 OF THE DAVIS CITY  
CODE ESTABLISHING AN OPEN SPACE PROTECTION  
SPECIAL TAX TO FUND ACQUISITION, IMPROVEMENT,  
AND MAINTENANCE OF OPEN SPACE RESOURCES  
WITHIN THE DAVIS PLANNING AREA SUBJECT TO THE  
APPROVAL OF THE VOTERS

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

Section 1. Article 15.16 is hereby added to Chapter 15 of the Davis City Code to read as follows:

ARTICLE 15.16. OPEN SPACE PROTECTION TAX

Section 15.16.010. Findings.

The City of Davis has been committed to the protection of natural resources, sensitive habitat, and agricultural lands surrounding the community for more than thirty years. Implementation of these long standing General Plan policies has taken place through land acquisition activities that began in 1988 as part of the Davis Open Space Program. This innovative acquisition program has been funded primarily through grant funding and agricultural mitigation in-lieu fees paid by development projects. The City has protected over 2,400 acres of sensitive habitat and prime agricultural lands in perpetuity through these funding sources.

Though the City has been successful in protecting open space, acquisitions to date have been dependant on transitory and speculative funding sources. Development related funding is expected to play a minor role in the future and the competition for grant funding is increasing. In addition, the projected growth in the Sacramento region and along the I-80 corridor in the next twenty years will place extraordinary development pressure on lands surrounding and between existing communities. The City of Davis recognizes that in order to counter these growth pressures and protect the character of the community, a comprehensive open space protection program is necessary. The cornerstone of such a program is a stable local funding source that provides acquisition and management monies for open space protection. This local backing shows potential grant funding sources that Davis is committed to a sustainable future and that support of its open space program is a wise investment.

The citizens of Davis have long understood that the character of the community is directly connected to lands within which the community resides. The relationship

between the City and the surrounding agricultural lands is a cornerstone of the policies set forth in the City's General Plan. It is within this context, and in consideration of projected growth in the Sacramento region, that the community will vote on this special tax designed to protect those resources that help define Davis.

The special tax levied in this ordinance, if approved by two-thirds of the voters voting on the special tax will provide revenue for the acquisition, operation, and maintenance of lands and easements for open space, habitat and agricultural uses and preservation in the areas surrounding the City.

Section 15.16.020. 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; 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 protection of limited natural resources, sensitive habitat, and the general quality of life as it relates to the attraction and retention of high quality businesses and the economic health of the community. 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.

Section 15.16.030. 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 1 of each year that this tax is in effect.

"Commercial Property" means all Parcels that are used for non-residential 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 1 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 30.

"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 15.16.040, that can be levied by the City Council in any Fiscal Year.

"Multi-Family 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.

"Open Space" means land in a predominantly natural state or altered for natural resource based uses (i.e. farming, parks), and may include, but is not limited to riparian areas, agricultural lands, watersheds, forests, floodplains, and habitat areas. For the purpose of this article, the definition of parks shall be limited to those areas providing

recreational opportunities where the use is consistent with the primary use of the property (e.g.: protection of agricultural resources, wildlife habitat, natural resources, etc.).

"Operation, Maintenance and Monitoring" means the operation, construction, or maintenance of facilities necessary to the conservation and continued use of the open space lands acquired by the City in fee or easement and to restore or enhance the use of these lands for their designated open space purposes and may include, but is not limited to, the construction of facilities to permit, in the appropriate locations, public access to and viewing of wildlife, habitat, riparian lands, and other open space uses.

"Permanently Affordable Housing" means an affordable single family or multifamily dwelling unit, as defined in the City of Davis Affordable Housing Ordinance, that is affordable in perpetuity and subject to an agreement between the developer and the City to maintain affordability. Such agreement shall be recorded. In the case of rental units, permanently affordable units must be subject to rental screening and affordable rental maintenance.

"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 in table 1 below and consistent with the disposition of the resulting revenue as established in Section 15.16.070.

"Taxable Property" means all Assessor's Parcels within the City of Davis as the boundaries of the City exist on July 1 of each year which are not exempt from the Special Tax pursuant to law or Section 15.16.080 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.

Section 15.16.040. Open Space Protection Tax.

A. If approved by the voters, commencing July 1, 2001 for fiscal year 2001-2002, the City shall collect funding for the acquisition, operation and maintenance of open space and related public facilities necessary for operation of the land as open space in the form of a special open space 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:

<u>Table 1</u>		
Maximum Special Tax Rates		
Land Use Class	Description	Maximum Special Tax
1	Market Rate Single Family Residential	\$24 per unit
2	Market Rate Multi-Family Residential	\$24 per unit
3	Permanently Affordable Single Family	\$12 per unit
4	Permanently Affordable Multi-Family	\$8 per unit
5	Group Living	\$10 per resident
6	Commercial	\$20 per 1,000 square feet of Improved Building Space up to a maximum of 10,000 square feet
7	Industrial	\$6.40 per employee up to a maximum of 30 employees
8	Day Care	\$7.15 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 \$24 per Assessor's Parcel.

B. Method of Apportionment of the Special Tax.

1. The Special Tax shall be levied on each parcel of land in the amount determined by reference to this Section 15.16.040.

2. 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.

Section 15.16.050. Collection.

The Open Space Preservation 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 Open Space Preservation 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.

Section 15.16.060. No 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.

Section 15.16.070. Limitation on Disposition of Revenue.

Revenues collected under the provisions of this Article shall be deposited in a special fund called the Open Space Preservation Special Tax fund. The special tax fund shall be used only for the following purposes: (1) acquisition in fee or easement of open space lands within the Davis Planning Area, (2) for the improvement, operation, maintenance and/or monitoring of open space lands currently owned by the City in fee or easement or acquired by the City in the future, including but not limited to the restoration, enhancement and preservation of habitat areas, maintenance of open space lands, and monitoring of habitat and agricultural conservation easements, (3) for the acquisition, improvement, and operation of only those bicycle trails designed to connect Davis to open space areas outside the city and with other regional bicycle facilities, (4) for the construction and maintenance of facilities necessary to preserve or enhance open space properties for open space purposes (i.e. the construction of maintenance of water wells and irrigation systems to serve the property and land uses, the creation and/or maintenance of access facilities where appropriate to promote public education and enjoyment of the open space, etc. ), and (5) 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, maintain and monitor properties owned in fee or easement jointly by the City and other public agencies and/or land trusts whose mission includes the preservation of open space lands within the Davis Planning Area.

Section 15.16.080 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, by ordinance, adopt a 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.

Section 15.16.090. Effective Date; Sunset 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 this ordinance.
- B. This Article shall remain in effect only until June 30, 2031 and as of that date this Article is repealed unless an extension or re-authorization of this Article is approved by the voters of the City at an election called for that purpose.

Section 15.16.110. Appeals.

The imposition of this tax and/or the 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.

Section 15.16.120. 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.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAVIS  
ON July 19, 2000, BY THE FOLLOWING VOTE:

AYES: BOYD, FREEMAN, GREENWALD, HARRINGTON, WAGSTAFF.

NOES: NONE.

ABSENT: NONE.

ATTEST: Bette E. Racki  
Bette Racki, City Clerk

Ken Wagstaff  
Ken Wagstaff, Mayor

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