ORDINANCE NO. 2522

ORDINANCE OF THE CITY OF DAVIS ADDING ARTICLE 15.21 OF CHAPTER 15 OF THE DAVIS MUNICIPAL CODE TO ESTABLISH A STREET AND BIKE PATH MAINTENANCE SPECIAL TAX TO FUND MAINTENANCE OF STREETS, SIDEWALKS, BIKE LANES AND BIKE PATHS, FOR TEN YEARS SUBJECT TO THE APPROVAL OF THE VOTERS

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Article 15.21 of Chapter 15 of the Davis City Code is hereby added to read as follows:

ARTICLE 15.21
STREET AND BIKE PATH MAINTENANCE TAX

15.21.010 Findings.
15.21.020 Legal Authority.
15.21.030 Definitions.
15.21.040 Street and Bike Path Maintenance Tax.
15.21.050 Collection.
15.21.060 Annual Adjustment of Tax Rate
15.21.070 Limitation on Disposition of Revenue.
15.21.080 Exemptions.
15.21.090 Effective Date; Renewal Provision.
15.21.100 Appeals.
15.21.105 Maintenance of Effort.
15.21.110 Annual Review of Expenditures by City Advisory Commission(s).
15.21.115 Severability.

15.21.010. Findings.
The Street and Bike Path Maintenance Tax is intended to provide funding to supplement the General Fund for the maintenance of streets, bike lanes and bike paths, and sidewalks, curbs and gutters and related street, sidewalk and bike path repair and maintenance. This special tax, if approved by an affirmative vote of two-thirds of Davis voters, will be in effect for a period ten (10) years to provide funding for the maintenance of these facilities.

The City Council strongly believes that it is in the public interest to increase the available amount of funding for the repair and maintenance of the City’s street, sidewalk and bike path infrastructure to provide for the safe movement of the community on our transportation infrastructure and to protect the community’s transportation-related assets. To that end, the City engaged Nichols Consulting Engineers, Inc. to perform an analysis of the state of repair of the City’s 160 miles of roads and 52 miles of bike paths and make recommendations on repairs and costs. As set forth in that report dated April 2016, the
average pavement condition index was 63 for the City's street network and 51 for bike paths, while 70-100 is considered to be in "good" condition. In addition, outside funding from state and federal levels has fluctuated in recent years, making it difficult to plan and execute street and bike path maintenance on a regular basis.

The special tax levied herein, if approved by a two-thirds vote of the voters, will provide the added revenue, which in addition to current funding allocations, is expected to fund over 70% of the total identified infrastructure maintenance needs and will, through this maintenance protect the City's and the residents' $238 million transportation infrastructure asset. The City will continue to fund street, sidewalk and bike path repairs through other funds and this tax provides for a "maintenance of effort" by the City which would continue the general funding for streets, sidewalks and bike paths and help assure that this tax provides added revenue to this purpose. This tax is proposed to continue for ten years thereby providing a stable revenue and also provides an annual two percent adjustment to the amount of the tax to assist in accounting for annual inflation.

15.21.020. 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 streets, sidewalks and bike paths. 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.

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.

"Maintenance" means the maintenance, repair, and rehabilitation of the Street and
Bike Path Improvements including but not limited to resurfacing, repair of cracks or
holes, re-striping, replacement of pavement markings, replacement of pavement of
street and bike path surfaces, and similar maintenance, repair or rehabilitation of other
Street and Bike Path Improvements.

"Maximum special tax" means the maximum special tax, determined in accordance
with Section 15.21.050, 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.

"Street and Bike Path Improvements" means public streets, roads, sidewalks, bike
lanes and on and off road bike paths and improvements ancillary to these
improvements, including curbs, gutters, street and bike path drainage, signs, striping
and pavement markings, traffic signals and street lighting that will be maintained, repaired and rehabilitated with proceeds of the special tax and shall also include other costs such as design, bidding, legal, inspection project management and financing costs directly related to the allowable public Street and Bike Path Improvements.

"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 15.21.090 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.

15.21.040. Street and Bike Path Maintenance Tax.

a. If approved by the voters, commencing July 1, 2018 for fiscal year 2018-2019, the city shall begin collecting funding for Street and Bike Path Improvements in the form of a special 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>
<thead>
<tr>
<th>Land Use Class</th>
<th>Maximum Special Tax Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
<td>Maximum Special Tax</td>
</tr>
<tr>
<td>1</td>
<td>Single-family residential</td>
</tr>
<tr>
<td>2</td>
<td>Multifamily residential</td>
</tr>
<tr>
<td>3</td>
<td>Group living</td>
</tr>
<tr>
<td>4</td>
<td>Commercial</td>
</tr>
<tr>
<td>5</td>
<td>Industrial</td>
</tr>
<tr>
<td>6</td>
<td>Day care</td>
</tr>
</tbody>
</table>
2. Vacant Land. The maximum special tax rate for vacant land shall be ninety-nine dollars per assessor's parcel.

b. Method of Apportionment of the Special Tax.

1. For fiscal year 2018-2019, the City shall levy the special tax at the maximum tax rates set forth above. For fiscal years 2019-2020 and each fiscal year thereafter, the maximum tax rate shall be increased at the beginning of each fiscal year by two percent (2%). For each fiscal year beginning with the 2019-20 fiscal year, the City Council shall set the actual tax rate for the applicable fiscal year, not to exceed the maximum tax rates set forth above as adjusted as set forth in this section and in section 15.21.060, 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 15.21.040:

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.


The Street and Bike Path 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 Street and Bike Path 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.

15.21.060. Annual Adjustment of Tax Rate

The maximum allowable tax rate shall be increased annually beginning July 1, 2019, by two percent (2%) per year unless modified or changed by a further vote of the electorate of the City. There shall be no other cost of living or COLA permitted.

15.21.070. Limitation on Disposition of Revenue.

Revenues collected under the provisions of this article shall be deposited in a special fund called the Street and Bike Path maintenance special tax fund and shall be used only for allowable costs of public Streets and Bike Path Improvements as defined in this Article 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.
   a. Public Property. No special tax shall be levied against public property.
   b. Low Income Exemption. To avoid undue hardship, the City Council shall provide for 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.

15.21.090. 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, 2028, 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 on June 30 2028.

15.21.100. 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.

The revenues collected from this tax shall be used only to supplement existing expenditures for street and bike path maintenance improvements and shall not be used to supplant existing funding for street and bike path maintenance improvements. The baseline maintenance of effort budget for this purpose shall be the Fiscal Year 2017-2018 Adopted General Fund for Transportation Infrastructure Rehabilitation (CIP 8250), which budgeted $3 million. If the maintenance of effort requirement is not met, the tax for that fiscal year shall be levied at a rate where the total revenue from the tax for that year shall not exceed the total General Fund contribution.

To promote the efficient and effective use of the special tax revenues, the City Council shall designate a commission or commissions to review the expenditures of funds collected though this special tax and the proposed expenditures for the next fiscal year. Each designated commission shall make recommendations to the City Council to be used during the City’s budgeting process and to assist City staff and the City Council in proposing and approving the projects that will be funded, in whole or in part, through this special tax. The Council may, from time to time, modify the commission(s) that will perform this annual review and the Council may also request other city committees or commissions to also review the prior or planned expenditures of revenues from this special tax.
15.21.115. 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 by the City Council of the City of Davis this 6th day of February, 2018, by the following vote:

AYES: Arnold, Frerichs, Lee, Swanson, Davis

NOES: None

Robb Davis
Mayor

This ordinance shall be deemed PASSED AND ADOPTED only upon its approval by a two-thirds vote of the voters voting in the General Municipal Election on June 5, 2018.

PASSED _____ NOT PASSED_____