

January 17~~6~~, 2021

**FULL TEXT OF MEASURE “\*”**

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

**FULL TEXT OF THE INVERNESS PUBLIC UTILITY DISTRICT INCREASED FIRE PREVENTION AND CONTROL MEASURE THROUGH AN INITIATIVE ORDINANCE SUBMITTED BY VOTERS IN THE INVERNESS PUBLIC UTILITY DISTRICT TO AUTHORIZE THE LEVY OF A SPECIAL PARCEL TAX**

THE VOTERS OF THE INVERNESS PUBLIC UTILITY DISTRICT (hereinafter “District”) ORDAIN AS FOLLOWS:

**SECTION 1. AUTHORIZATION, PURPOSE, AND INTENT.**

It is the purpose and intent of this Ordinance to authorize the levy of a tax on parcels of real property on the secured property tax roll of Marin County that are within the jurisdiction of the District.

Pursuant to the authority of Chapter 4 of Division 9 of the Election Code and other applicable law, following the certification of results of the \*, \* election, if a majority of the voters vote “yes” to the ballot question authorized under Section 7 of this Ordinance, there shall hereby be levied and assessed a special parcel tax by the District on all parcels of real property in the District for each fiscal year. It is the purpose and intent of this ordinance to impose a special parcel tax for fire protection and prevention services, including but not limited to improvements to the District water supply system to improve the ability of the system to fight fires, to improve district and customer efficiency to make more water available to fight fires and survive droughts, and to reduce fuels, and partner with state and federal park agencies to implement fuel reduction projects within and near the boundaries of the District.

**SECTION 2. DEFINITIONS.**

The following definitions shall apply throughout this Ordinance.

A. “Parcel” means the land and any improvements thereon, designated by an assessor’s parcel map and parcel number and carried on the secured property tax roll inside the boundaries of the District. For the purposes of this Ordinance, parcel does not include any land or improvements owned by any governmental agency.

B. “Fiscal year” means the period of July 1 through the following June 30.

C. “Consumer Price Index” means the Consumer Price Index for all Urban Consumers (CPI-U) for the San Francisco-Oakland-San Jose Area (1982-84=100) as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised, another similar government index or computation shall be utilized, as determined by the District.

D. “Use Code” means the two-digit number created by the Marin County Assessor’s Office to define classes of properties.

**SECTION 3. SPECIAL PARCEL TAX IMPOSED.**

(a) A special parcel tax for the purpose specified in Section 1 of this ordinance shall be imposed on all taxable parcels of real property within the jurisdictional boundaries of the District. The County of Marin defines certain classes of properties that appear on the assessment roll, which may be updated as necessary.

The maximum amount of the special parcel tax for each fiscal year from fiscal years 2021-2022 through fiscal year 2030-2031 shall be as follows, as adjusted annually by the change in the Consumer Price Index:

Improvement Status	Property Type	Maximum Rate	Per
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Improved	Agricultural Preserve Contract (Use Code 33) Agricultural Preserve Farmland Security Zone (Use Code 35)		
	Commercial (Use Code 51)		
	Historical Property (Mills Act) (Use Code 38)		
	Industrial (Use Code 41)		
	Multiple Family Residential (Use Code 21)		
	Open Space Contract (Use Code 37)	\$0.20	Building Square Foot
	Rural (Use Code 31)		
	Single Family Residential; Single Family Residential, one living unit; Single Family Residential, one living unit with second dwelling unit (Use Code 11)		
	True Duplex (Use Code 21)		
	Attached Single Family Residential (includes condominiums, townhouses, attached Planned Unit Developments, and co-ops) (Use Code 14)		
Manufactured Home (Use Code 12)			
Unimproved	All Non-Exempt vacant, less than or equal to 0.25 acres (Use Codes 10, 20, 30, 32, 34, 36, 40, 50)	\$40.00	Parcel
Unimproved	All Non-Exempt vacant, greater than 0.25 acres up to and including 0.50 acres (Use Codes 10, 20, 30, 32, 34, 36, 40, 50)	\$150.00	Parcel
Unimproved	All Non-Exempt vacant, greater than 0.50 acres (Use Codes 10, 20, 30, 32, 34, 36, 40, 50)	\$225.00	Parcel

For each fiscal year from fiscal year 2031-2032 through fiscal year 2040-2041, the maximum amount of the special parcel tax for each fiscal year for improved property shall be one cent per square foot per year less than the previous year, after adjustment pursuant to paragraph (b) of this section. After fiscal year 2040-2041 no further changes in the maximum amount of the special parcel tax shall be made, except for changes made pursuant to paragraph (b) of this section.

(b) Before the beginning of each fiscal year, the Board of Directors of the District shall adjust the maximum parcel tax to be levied upon the parcels for the upcoming fiscal year as adjusted by inflation.

The Board of Directors of the District shall set a parcel tax not to exceed the maximum parcel tax as adjusted by inflation.

The maximum tax per year for each property type shall be adjusted to reflect any change in the Consumer Price Index beyond the first fiscal year the parcel tax is levied. Change in the Consumer Price Index shall be calculated from February of the immediately preceding year to February of the current year, or 3%, whichever is less.

The records of the Marin County Tax Collector each year shall provide the basis for determining the calculation of the special parcel tax applicable to each parcel, with such corrections as deemed necessary by the Board of Directors for the District to reflect the actual use and improvement of any parcel.

The District may implement a parcel tax fee waiver or reduction program for low income households at its discretion.

**SECTION 4. SPECIAL FUND, USE OF TAX PROCEEDS.**

The proceeds of the special tax imposed by this ordinance shall be placed in a special fund to be used solely for the purposes of this measure, as set forth in Sections 1 and 7, for use within the District, and on public land adjacent to the District.

**SECTION 5. TAXES AS LIENS AGAINST THE PROPERTY.**

The amount of taxes for each parcel each fiscal year shall constitute a lien on such property in accordance with Revenue and Taxation Code Section 2187 and shall have the same effect as an ad valorem real property tax lien until fully paid. Said special parcel tax, together with all penalties and interest thereon, shall constitute until paid, to the extent authorized by law, a personal obligation to the District by the persons who own the parcel on the date the tax is due.

This tax is a special tax within the meaning of Section 4 of Article XIII A of the California Constitution. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is levied on a parcel, class of improvement, and use of property basis. Insofar as not inconsistent with this Ordinance or with legislation authorizing special taxes, and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Article XIII of the California Constitution as relate to ad valorem property taxes apply to the collection and administration of this tax (Severability Clause of Section 10), except as stated below.

In the decision of the California Court of Appeals First District in "CITY AND COUNTY OF SAN FRANCISCO, Plaintiff and Respondent, v. ALL PERSONS INTERESTED IN THE MATTER OF PROPOSITION C, Defendants and Appellants. A158645 (City & County of San Francisco Super. Ct. No. CGC-19-573230)", the court determined that citizen initiatives imposing new taxes need only pass by a majority vote. The California Supreme Court declined to review this case. In "California Cannabis Coalition vs City of Upland" the California Supreme Court determined that Article XIII C does not constrain voters' constitutional power to propose and adopt taxation initiatives and that under Article II, Section 11 of the Constitution and the Elections Code, the initiative should be submitted at a special election, and Article XIII C does not limit voters' power to raise taxes by statutory initiative. Supreme Court decision S234148.

These two cases make this citizen initiative to impose taxes legal, and the measure need pass by only a majority vote.

**SECTION 6. COLLECTION.**

The taxes on each parcel shall be billed on the secured roll tax bills for ad valorem property taxes and shall be due to the District. Insofar as feasible and insofar as not inconsistent with this Ordinance, the

taxes are to be collected in the same manner in which the County of Marin collects secured roll ad valorem property taxes. Insofar as feasible and insofar as not inconsistent with the Ordinance, the times and procedures regarding exemptions, due dates, installment payments, correction, cancellations, refunds, late payments, penalties, liens, and collections for secured roll ad valorem property taxes shall be applicable to the collection of this tax. Notwithstanding anything to the contrary in the foregoing, as to this tax: (1) the secured roll tax bills shall be the only notices required for this tax; and (2) the homeowners and veterans' exemptions shall not be applicable to this tax because such exemptions are determined by dollar amount of value. The reasonable costs incurred by the County officers collecting this tax shall be deducted from the collected taxes.

**SECTION 7. BALLOT LANGUAGE.**

This measure shall appear on the ballot at the election held on \*, \*. The voters who placed this measure on the ballot request it reads as follows:

**Measure \*. Inverness Public Utility District Fire Prevention and Control.** To improve the water supply of the Inverness Public Utility District in order to better fight fires and avoid water shortages, to implement water conservation measures by the District and its customers, and to control fuels and other fire hazards inside District boundaries and on state and federal lands adjoining the District; shall the Inverness Public Utility District Fire Prevention and Control Parcel Tax Measure be adopted?

**SECTION 8. USE OF FUNDS.**

(A) (1) (a) Over each three-year period, approximately half of the funds collected shall be used for ~~customer~~-incentives paid to property owners within the District for implementing water conservation, leak detection and elimination, and greywater and rainwater storage; and water capital outlay improvements which increase and improve the reliability of the water supply available to fight fires. (b) Over each three-year period, approximately half of the funds collected shall be used to reduce fuels on public and private property within the District and on state and federal park lands adjoining the district; to reduce the danger of trees and branches falling on electrical wires and causing fires; for increased water storage to better fight fires; and to share in the costs of removing dead trees and other fuels on private property if the private property owner agrees to create and maintain defensible space in accordance with the requirements of Section 4290 et seq. of the California Public Resources Code.

(A) (2) Projects and programs which the District is authorized to undertake using funds provided by paragraph (A)(1)(a) of this section include but are not limited to cost sharing with consumers to a) undertake leak detection, b) make outdoor irrigation systems more efficient, c) construct storage of rainwater and graywater including equipment to make it available to firefighters, d) construct on site storage of District water which is accessible to the District and firefighting organizations, e) removal of dead trees and other fuels, and f) replacing inefficient water using appliances with more efficient appliances.

(B) All projects to reduce fuels shall comply with the California Environmental Quality Act, and use the California Department of Forestry and Fire Protection Vegetation Treatment Plan as guidance for project implementation.

**SECTION 9. ADMINISTRATION AND AMENDMENT.**

The District by resolution may adopt procedures or definitions for the implementation or administration of the special parcel tax, with approval of the District Board of Directors. The District Board of Directors shall be empowered to amend this ordinance by an affirmative unanimous vote of its members to carry out the general purposes of this ordinance, to conform the provisions of this ordinance to applicable state law, to modify the methods of collection, or to assign the duties of public officials under this ordinance.

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Except as provided in Section 3, the District Board of Directors shall not amend this ordinance to increase the maximum amount of the special parcel tax established in Section 3 of this ordinance, or to modify the purposes for which the tax proceeds were established in Section 8 of this ordinance, unless approved by a majority of the District's voters voting thereon.

**SECTION 10. EXEMPTIONS.**

The special parcel tax shall not be imposed upon any parcel that is exempt from the special parcel tax pursuant to any provision of the United States Constitution, California Constitution, California State law, or any paramount law. Additionally, parcels that are classified by County Assessor Use Codes 13, 15, and 53-90 are exempt from this special tax. These exemptions include churches, non-profits and local governments that meet the standards for exemption from ad valorem tax.

**SECTION 11. SEVERABILITY.**

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

**SECTION 12. EFFECTIVE DATE.**

This Ordinance shall take effect immediately following the certification of results of the \*, \* election if a majority of the voters vote "yes" to the ballot question authorized under Section 7, and taxes shall first be levied hereunder for the fiscal year beginning \*, \*.

**SECTION 13. AUDITS.**

An independent audit of the accounts and records of the District shall be conducted annually to comply with all requirements of the State Controller's office.