

## **ORDINANCE NO. 2019-01**

### **AN ORDINANCE OF NAPA COUNTY, KNOWN AS THE NAPA WATER, PARKS AND OPEN SPACE RESTORATION AND PRESERVATION RETAIL TRANSACTIONS AND USE TAX ORDINANCE, IMPOSING A TRANSACTION AND USE TAX, TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

The people of Napa County hereby ordain:

**SECTION 1:** Overview. The goal of this Ordinance is to protect the quality and quantity of local water resources, reduce wildfire risk, preserve 20,000 acres of forests, wildlife habitat, rivers and streams and other important open space lands and resources in Napa County, provide public parks for all, and educate future generations in the care and stewardship of the natural environment. The Ordinance does this by establishing (subject to voter approval) a dedicated source of funds to implement the Napa Open Space District Master Plan as updated on July 8, 2019. Funds come from a one-quarter percent transaction and use tax (commonly referred to as a sales tax); of the estimated \$9 million annually generated, at least 52 percent is restricted to the acquisition of high priority open space lands, 25 percent is restricted to operating, maintaining and improving open space lands, including but not limited to managing forests to reduce wildfire risk, operating public parks and sponsoring youth outdoor education, 20 percent will be distributed to the four cities and one town in Napa County to implement their adopted local park and recreation plans, and no more than three percent may be spent on administrative overhead. One hundred percent of the funds must be spent for the purposes specified in the Ordinance, and none may be diverted by the State, the County of Napa or any other agency for any other purpose. The Ordinance requires independent citizen oversight, mandatory financial audits and yearly reports to the public. The Ordinance makes it possible for the Napa Open Space District and its partners to compete successfully to obtain a fair share of State and Federal matching funds. Tourists are expected to pay more than one-third of the total funds generated. Without the Ordinance, 20,000 acres of unprotected land and natural areas could be lost to development and gone forever. The Ordinance will help ensure that city parks can continue to be expanded and improved to provide valuable recreational facilities for local residents. By protecting natural carbon sequestration, the Ordinance will help Napa fight climate change. The tax authorized by this Ordinance shall terminate in fifteen years unless renewed by a two-thirds majority of the voters of Napa County.

**SECTION 2.** A new Chapter 3.30 (Napa Water, Parks and Open Space Restoration and Preservation Retail Transactions and Use Tax) is hereby added to the Napa County Code to read in full as follows:

## Chapter 3.30

### NAPA WATER, PARKS AND OPEN SPACE RESTORATION AND PRESERVATION RETAIL TRANSACTIONS AND USE TAX

#### Sections:

3.30.010	Title and Definitions.
3.30.020	Effective Date; Operative Date.
3.30.030	Purpose.
3.30.040	Contract With State.
3.30.050	Transactions Tax Rate.
3.30.060	Place of Sale.
3.30.070	Use Tax Rate.
3.30.080	Adoption of Provisions of State Law.
3.30.090	Limitations on Adoption of State Law and Collection of Use Taxes.
3.30.100	Permit Not Required.
3.30.110	Exemptions and Exclusions.
3.30.120	Amendments.
3.30.130	Enjoining Collection Forbidden.
3.30.140	Termination Date.
3.30.150	Receipt of Proceeds
3.30.160	Use of Proceeds.
3.30.170	Establish and Increase Appropriations Limit.
3.30.180	Expenditure Plan.
3.30.190	Community Oversight Committee
3.30.200	Implementation of Expenditure Plan

#### 3.30.010 Title and Definitions.

A. This ordinance shall be known as the **Napa Water, Parks and Open Space Restoration and Preservation Retail Transactions and Use Tax Ordinance**. This ordinance shall be applicable in the incorporated and unincorporated territory of the County.

B. Definitions. For the purpose of this chapter, the following definitions shall apply:

1. "Napa Open Space District" means the Napa County Regional Park and Open Space District.
2. "Expenditure Plan" means the Napa County Regional Park and Open Space District Water, Parks and Open Space Restoration and Preservation Expenditure Plan set forth in Section 3.30.180.
3. "Operative Date" means the first day of the first calendar quarter commencing more than one hundred ten days after the adoption of this ordinance.
4. "District Board" means the Board of Directors of the Napa County Regional Park and Open Space District.
5. "Committee" means that Community Oversight Committee established as set forth in subsection (C) of Section 3.30.180.

6. "Fiscal Policy and Procedures" will be the accounting, auditing and reporting guidelines developed by the Committee with the County Auditor-Controller and approved by the District Board as set forth in subsection (C) of Section 3.30.190.

**3.30.020 Effective Date; Operative Date.**

- A. This ordinance shall become effective upon its approval by a two-thirds majority of the electors voting on the measure ("Effective Date").
- B. The operative date of this ordinance shall be on July 1, 2020.

**3.30.030 Purpose.**

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.5 of Part 1.7 of Division 2 which authorizes the County to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

**3.30.040 Contract With State.**

Prior to the operative date, the County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the County shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**3.30.050 Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of one quarter of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

**3.30.060 Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

**3.30.070 Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the County of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one quarter of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**3.30.080 Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

**3.30.090 Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefore. However, the substitution shall not be made when:
1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
  2. The result of that substitution would require action to be taken by or against this County or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this ordinance.
  3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
    - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
    - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

a. The word "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

"A retailer engaged in business in the County" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

### **3.30.100 Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

### **3.30.110 Exemptions and Exclusions.**

A. There shall be excluded from the ordinance of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the County, which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this section, delivery to a point outside the County shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-county address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-county and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property, which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this County of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subsection (7) a retailer engaged in business in the County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7. "A retailer engaged in business in the County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a county imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of

which is subject to the use tax.

**3.30.120 Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

**3.30.130 Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the County, or against any officer of the State or the County, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**3.30.140 Termination Date.**

The authority to levy the tax imposed by this ordinance shall expire fifteen years from the operative date of this ordinance, on June 30, 2035.

**3.30.150 Receipt of Proceeds**

All revenue generated by this ordinance shall be transferred by the County Auditor-Controller into an account specifically created for and under the Napa Open Space District, not to be comingled with the County's funds in accordance with Fiscal Policies and Procedures adopted by the Napa Open Space District Board.

**3.30.160 Use of Proceeds.**

The proceeds of the taxes imposed by this ordinance shall be used solely for the projects and purpose set forth in the expenditure plan and for the administration thereof. Pursuant to the requirements of Government Code §50075.1, (1) the expenditure plan constitutes the statement of the specific purposes for which the revenue generated by this ordinance may be expended, (2) the expenditure of the revenue generated by this ordinance shall be restricted to the purposes stated in the expenditure plan. These funds shall not be utilized for the cost of any legal proceeding or action against Napa County, its staff, its agents or its officers.

**3.30.170 Establish and Increase Appropriations Limit.**

Pursuant to California Constitution Article XIII B, the appropriations limit for the Napa Open Space District will be established at \$15,000,000, adjusted annually for population and cost of living increases.

**3.30.180 Expenditure Plan.**

A. This expenditure plan allocates the proceeds established by this ordinance to four categories. In subsection (B), each project area is described by its funding allocation, and types of projects and activities that the funding would support. Over the duration of the tax, it is expected that the proceeds would be utilized within the following guidelines:

Preservation: Watersheds, Rivers, Lakes, Open Space and Wildlife Habitat	At least 52%
Open Space Parks: operations, maintenance, restoration and improvement of public parks and open space lands, forest management for wildfire fuel reduction, youth outdoor education and grants to local partner non-profit organizations and public agencies	25%
Local Parks and Trails	20%
Administrative Overhead	No more than 3%

B. Expenditure Categories

1. Preservation: watersheds, rivers, lakes, open space and wildlife habitat.

Preservation of the most valuable of Napa County's open space lands, including watersheds, rivers, lakes and wildlife habitat, is the primary goal of this expenditure plan. In implementing this goal, the Napa Open Space District shall be guided by the principles and policies contained in its Master Plan and the Master Plan Update adopted July 8, 2019.

Preservation may be through acquisition of fee title ownership, or easement, or any other conveyance of partial ownership interest in real property and associated rights including but not limited to water and mineral rights.

Preservation priorities include the following:

- a. protect local drinking water sources by preserving watersheds that are the source of drinking water for Lake Hennessey and Milliken Reservoir serving City of Napa residents, for Kimball Reservoir serving City of Calistoga residents, for Bell Canyon Reservoir serving City of St. Helena residents, for the Friesen Lakes serving Angwin residents, for Rector Reservoir serving Yountville and Veterans Home residents, and for Lake Curry potentially serving City of American Canyon and other residents; protection of these municipal watersheds, along with the purchase of Skyline Wilderness Park (see subparagraph "j" below), shall be the top priority for preservation;
- b. protect water quality in rivers, creeks and lakes, including but not limited to the Napa River and its tributaries, Putah Creek and its tributaries including Lake Berryessa, and Suisun Creek including Lake Curry, by acquiring the watersheds that supply water to these rivers, creeks and lakes;
- c. protect natural areas including oak woodlands and other forested lands;
- d. preserve native biodiversity by protecting critical habitats and wildlife corridors;
- e. acquire rights-of-ways and land needed to implement the public access goals of the Napa Open Space District Master Plan as updated July 8, 2019;
- f. support the continuation of agriculture by protecting key agricultural lands through the acquisition of conservation easements or fee title ownership,
- g. complete regional parks and close gaps separating existing protected local, state and federal lands;

- h. provide open space parks close to where people live, and trails that connect communities to nature;
- i. take advantage of one-time opportunities to preserve important open space lands or address immediate threats to water quality, water supply and natural habitats;
- j. protect Skyline Wilderness Park through acquisition from the State of California; no funds generated by this Ordinance may be used to support or facilitate any non-park use, development or resource extraction on any portion of the currently-leased area of Skyline Wilderness Park. The Napa Open Space District shall make all reasonable efforts to reach agreement with the State of California to purchase all of the currently-leased area of Skyline Park, and once such agreement is reached, shall use proceeds from the Ordinance as needed to complete the purchase.

All acquisitions funded with revenues generated by this ordinance shall only be made from willing sellers, and may never be for more than appraised fair market value. Therefore, the priorities and projects identified above are subject to the availability of willing sellers at reasonable prices.

Eligible costs include but are not limited to purchase price, escrow and related closing costs, legal fees associated with the purchase, and other costs incurred in negotiating purchase agreements and completing transactions.

2. Open Space Parks: operations, maintenance, restoration and improvement of public parks, other open space lands and trails, forest management for wildfire fuel reduction, youth outdoor education and grants to local partner non-profit organizations and public agencies.

The second goal of this expenditure plan is to restore, repair and maintain a high standard of care for open space parks and other public open space resources, while also facilitating appropriate public access improvements, consistent with the Napa Open Space District Master Plan and Update adopted July 8, 2019.

Restoration, repair and maintenance priorities include the following:

- a. reduce wildfire risk through improved forest management practices including invasive weed control to reduce fuel loads and eliminate fuel ladders, and maintaining forest diversity (avoiding even-aged, overly dense and single-species forests);
- b. ensure water quality through control of soil erosion by restoring, repairing and/or maintaining trails, culverts, water courses, enhancing native landscapes to naturally filter water;
- c. protect wildlife by controlling the spread of non-native species, maintaining corridors for wildlife movement;
- d. improve and maintain parks to ensure they are clean, safe and welcoming public open spaces for healthy living--for play, for exercise and to relieve stress; and
- e. repair and conserve deteriorating open space infrastructure and resources, including water systems, access roads, facilities and Native American and historic resources located on public plans.

Public access priorities include the following:

- a. construct, maintain and enhance walking, hiking, biking and equestrian trails, especially close to where Napa County residents live, and trails that connect communities with nature;
- b. provide nature-based recreation opportunities including but not limited to overnight accommodations, for diverse recreational interests, ages and abilities;
- c. improve public access to existing public lands that are not currently accessible to the public; and
- d. complete the public facilities and recreational trail network proposed in the Napa Open Space District Master Plan.

Eligible costs associated with restoration, maintenance and public access include, but are not limited to, direct staff costs to operate the program; contracted and volunteer services; equipment and materials; and permitting and recording fees.

The goal of youth education is to provide every student the opportunity for at least one outdoor educational field experience per year to study the environment, how it functions and how to take care of it. Funds may be used to support District programs, or may be granted through a competitive grant process to non-profit organizations, teachers, and schools to improve and expand participation in outdoor youth education programs.

Eligible costs associated with youth education include, but are not limited to:

- a. school field trips to support hands-on learning;
- b. interpretive signs and facilities;
- c. summer camps; and
- d. junior ranger programs.

Grants to partners are intended to support the water quality enhancement, natural resource restoration, and educational work of local non-profit and public agency partner. Priorities include:

- a. joint research to better understand ecological processes and develop best management practices;
- b. coordinated forest management, fuel reduction and other wildfire risk reduction projects;
- c. joint education and outreach programs; and
- d. Restoration of native species and control of invasive species.

### 3. Local Parks and Trails.

The third goal of this expenditure plan is to help implement the park and recreation objectives of the five municipalities in Napa County. Funding in this program area shall be allocated proportionate to population to each of the four cities and one town, utilizing the most current published population estimates pursuant to the procedures specified in Section 3.30.200(b). Funds so granted may only be used to plan, acquire, construct, operate, repair and maintain parks and outdoor recreation facilities and programs identified in the respective adopted General, Specific and Master Plans of each jurisdiction.

4. Administration. No more than three percent of the revenues generated by this Ordinance may be used to fund administrative overhead, as defined in Section 3.30.200(d).

### **3.30.190 Community Oversight Committee**

#### **A. Membership and Meeting Requirements**

1. The Committee shall be established within six months of the effective date of the ordinance.

2. Members of the Committee shall be appointed by the District Board. The role of the committee shall be to advise the District Board and staff, to make recommendations and to report their findings to the Napa community.

3. Members of the Committee shall be Napa County residents who are neither elected officials of any government within Napa County, nor employees from any agency or organization that either oversees or benefits from the proceeds generated by this ordinance.

4. The Committee shall consist of seven at-large members, with at least one member from each Napa Open Space District ward. At least two at-large members shall have experience as public accountants, bankers, budget managers or related professional endeavors.

5. The General Manager of the District, or designee, and the County Auditor-Controller shall serve as non-voting ex-officio members of the committee.

6. The District Board shall approve bylaws related to the conduct of committee meetings and business.

7. Meetings of the committee shall be open to the public and shall be held in compliance with the Ralph M. Brown Act, California's open meeting law

8. All members of the committee shall participate in conflict of interest and ethics training pursuant to AB 1234.

9. The committee shall dissolve after all revenue collected from the proceeds generated by this ordinance is expended and a final report is submitted and circulated to the Napa County community.

10. No salary or stipend shall be paid to committee members.

#### **B. Responsibilities**

1. Work with the County Auditor-Controller on recommended Fiscal Policies and Procedures for the District Board's approval.

2. Review expenditures on an annual basis to ensure they conform to the expenditure plan.

3. With the assistance of the County Auditor-Controller, prepare an annual report within four months of the end of each fiscal year, describing how funds were spent and present to the District Board in a public meeting.

4. To preserve the integrity and independence of the oversight process, the committee's responsibilities shall not include decision-making on spending priorities, financing plans or tax rate projections or assumption and the committee shall have no authority to direct, nor shall it direct County or District staff or officials.

#### **C. Role of the County Auditor-Controller**

1. Recommend draft Fiscal Policies and Procedures to the committee using best

accounting practices, ensure strong internal controls; these procedures shall not deviate from the District's accounting practices and system.

2. Receive the tax revenues from the State and transfer them into an account specifically created for and under the Napa Open Space District.

3. Provide, at least annually, a full accounting of the funds received and expended.

4. Assist the Committee with the annual report and file with the District Board all reports meeting the requirements of Government Code Section 50075.3.

5. File an annual report with the Napa County Board of Supervisors no later than January 1 of each year that contains the amount of funds collected and expended and the status of any project required or authorized to be funded as identified in the Expenditure Plan as required by Government Code Sections 50075.1 and 50075.3.

### **3.30.200 Implementation of the Expenditure Plan**

Implementation of the expenditure plan shall be guided by the following procedures to ensure that the revenue generated by the ordinance is spent in the most efficient and effective manner possible, consistent with serving the public interest in Napa County, and the desires of the voters of Napa County.

A. The County Auditor-Controller shall transfer all revenues generated by the ordinance to the Napa Open Space District as they are received by the County and will be allocated and accounted for in a prescribed manner as set forth in the Fiscal Policies and Procedures. The Auditor-Controller shall be reimbursed actual costs associated with the collection, distribution and reporting of revenues and expenses.

B. The 20% Local Parks and Trails allocation to each eligible jurisdiction will be based on its proportionate share of the total population of the incorporated areas of Napa County, revised annually using the California Department of Finance Annual Price and Population letter issued in May of each year as the basis for the allocation of the following fiscal year's sales tax receipts.

1. The Cities of Napa, American Canyon, St. Helena, Calistoga and the Town of Yountville may submit invoice(s), up to the funds allocated and available for that jurisdiction, to the Napa Open Space District for reimbursement of eligible park and recreation expenses. Each invoice shall be accompanied by documentation in a form acceptable to the Napa County Auditor-Controller, including a certification that all expenses are for park and recreation purposes, and are consistent with the jurisdiction's adopted park and recreation plan(s), General Plan, any other applicable Specific Plans and Zoning Ordinance. In addition, any invoice for the purchase of real property shall be accompanied by a recorded easement permanently restricting the use of the real property for the intended park and recreation purposes.
2. All invoices shall be reviewed and approved by the Napa Open Space District General Manager prior to payment.
3. The Napa Open Space District Board of Directors shall promptly pay all such invoices provided the expenses are consistent with the requirements of this Ordinance and sufficient funds have been received and allocated.

C. The District Board shall conduct a public meeting at least annually to gain public input on project selection, as part of Napa Open Space District's annual budget development process.

D. No more than three percent of revenues received by Napa County from the State of California pursuant to this Ordinance may be used for administrative overhead. Administrative overhead includes County of Napa expenses to administer the Ordinance, Napa Open Space District expenses to administer Local Parks and Trails grants, central office expenses consisting of rent and furnishings, out of county travel including transportation, lodging and food, and financial audit expenses.

E. The County (when it receives and transfers the revenues) and the Napa Open Space District (upon receipt of the revenues) are charged with the fiduciary duty to administer proceeds in accordance with applicable laws and the expenditure plan. Disbursement of funds as grants shall be subject to terms and conditions that may include, but are not limited to, the Napa Open Space District's right to require grantees to enter into grant agreements with the Napa Open Space District and audit a grantee's use of proceeds.

F. Actual revenues generated by the ordinance may be higher or lower than estimates in this plan due to variability in annual receipts caused by changes in the economy generally and the level of tourism spending in Napa County. The Napa Open Space District shall annually estimate revenue generated by the ordinance, and adjust expenditures as necessary to avoid deficit spending.

G. The Napa Open Space District may accumulate revenue over multiple years so that sufficient funding is available for larger and long-term projects. All interest income shall be used for the purposes identified in this expenditure plan.

H. All funds generated by this ordinance shall only be used for projects that are consistent with applicable General Plans, Specific Plans, Master Plans and Zoning Ordinances.

I. Regarding real property acquisitions, revenues generated by the ordinance may only be used for real property acquisition projects located wholly or at least partially within Napa County.

J. Revenues generated by the ordinance shall not be used to incur bonded indebtedness.

K. To enhance local workforce development and employment opportunities, and involve youth and young adults in caring for our natural resources, the Napa Open Space District will seek to form partnerships with workforce development programs, youth conservation corps and local community-based non-profit organizations and public agencies working with low-income, at-risk and disabled youth and young adults, to incorporate job training, internships and apprenticeships into the implementation of Napa Open Space District projects.

**SECTION 3:** The Board of Supervisors finds that it can be seen with certainty that there is no possibility the proposed Ordinance may have a significant adverse effect on the environment and therefore CEQA is not applicable. (See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3).) Individual projects and programs funded by this Ordinance may be subject to CEQA review at the time they are approved.

**SECTION 4.** An election shall be ordered to enable the voters of Napa County to approve or reject this Ordinance. The date of the election shall be March 3, 2020.

**SECTION 5.** If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

**SECTION 6.** This ordinance shall be published at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same. The foregoing ordinance was introduced read and passed at a regular meeting of the Napa County Board of Supervisors held on August 20, 2019, by the following vote,

**[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]**

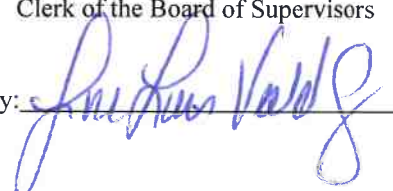
which is no less than a two-thirds vote of all members of the Napa County Board of Supervisors as required by Government Code Section 53724(b) and Revenue and Taxation Code Section 7285.5:

AYES:	SUPERVISORS	DILLON, WAGENKNECHT, PEDROZA, RAMOS and GREGORY
NOES:	SUPERVISORS	NONE
ABSTAIN:	SUPERVISORS	NONE
ABSENT:	SUPERVISORS	NONE

NAPA COUNTY, a political subdivision of the State of California

By:

  
\_\_\_\_\_  
RYAN GREGORY, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Chris R.Y. Apallas</u> Deputy County Counsel</p> <p>Date: <u>August 12, 2019</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: August 20, 2019</p> <p>Processed By:  _____ Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By:  _____</p>
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This ordinance shall be considered as adopted upon the date the vote is declared by the Board of Supervisors and shall go into effect ten (10) days after that date, all pursuant to Section 9122 of the California Elections Code.

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