

ORDINANCE 2013-01

AN ORDINANCE OF THE AMERICAN CANYON FIRE PROTECTION DISTRICT CONFIRMING AND AMENDING THE ORDINANCE ENACTED BY THE PASSAGE OF MEASURE B, ERRONEOUSLY ENTITLED “RESOLUTION 2-80 AND RESOLUTION 6-80”

SECTION 1

At the June 1980 General Election a ballot measure designated “Measure B” was approved by 76% of the voters, providing for the maintenance of fire protection and emergency services in American Canyon at levels existing as of June 30, 1980. Measure B declared that a fire services fee was to be charged by the District only after available revenues from real estate taxes are exhausted. The combined charge for fire protection to every taxpayer was to be less than charges prior to Proposition 13 (Cal. Const. Art. XIII A).

Included within Measure B was an Ordinance contained in Sections 201 through 216, which, among other things, provided for the determination of revenue based on a fire flow that was determined by property use and the amount of fire flow required for such use. Section 206 of Measure B as enacted provided for an increase to the calculated fee, consistent with Proposition 4 (Cal. Const. Art. XIII B), based on cost of living or population.

The method of calculation as set forth in Section 205 is necessary to further the voter intent of producing revenue to maintain current levels of service by allocating fees based on the fire flow demands of each parcel.

SECTION 2

The Ordinance enacted by Measure B, erroneously entitled “Resolution 2-80 and Resolution 6-80” is hereby amended as follows:

Section 201 - TITLE

This article shall be known as the "Fire Service Fee".

Section 202 - PURPOSE

The Board of Directors herein declares that fee required to be paid herein are assessed pursuant to the powers granted by the voters, Article XIII A of the State Constitution, Article 16, Chapter 4 of Part 1, of Division 2 of Title 5, of the Government Code, and are solely for the purpose of producing revenue to maintain current Fire Service levels.

The revenue necessary to maintain current fire service levels shall be determined by dividing the total fire flow requirements of all property in the American Canyon Fire Protection District (the “District”) into the total annual budget of the District, less *ad valorem* taxes.

Section 203 - DEFINITIONS

As used in this Ordinance, unless the content clearly indicates otherwise, the words and phrases used are defined as follows:

1. DWELLING UNIT shall mean a structure, regardless of the type or method of construction, which contains one or more bedrooms, a bathroom, and cooking facilities, designated for occupancy by one or more person(s) regardless of relationship, living as a single-family unit.
2. EQUIVALENT DWELLING UNITE (EDU) means the fire fee charge billing unit increment related to the minimum needed fire flow, 500 gallons per minute (gpm), to respond to a fire at a single dwelling.
3. LEVEL OF SERVICE shall be defined to include personnel, equipment and facilities used for the purpose of fire suppression, inspections, training and emergency medical services at the level currently provided on the date this ordinance is adopted.
4. MOBILE/MANUFACTURED HOME shall mean a factory-built or pre-fabricated housing structure that has been partially or entirely assembled at another location and moved into a development.
5. MOBILE/MANUFACTURED HOME PARK shall mean a common development (with a single property owner or entity) of more than one factory-built or pre-fabricated housing structure that has been partially or entirely assembled at another location and moved into the development.
6. NON-SINGLE-FAMILY RESIDENTIAL (NSFR) PARCEL shall mean a developed parcel of land that consists of various nonresidential land uses including, but not limited to: (1) multifamily, commercial (including mixed commercial and residential) office/institutional, public, transportation, industrial, manufacturing and storage buildings and facilities; (2) parks, public and private schools, and hospitals; (3) water and wastewater treatment plants; and (4) any other form of use not specifically defined as single-family residential property.
7. OWNERS OF REAL PROPERTY shall mean all persons, firms, corporations, associations or other entities holding title to real property within the District as shown on the last equalized assessment roll of the Napa County Tax Assessor.
8. REQUIRED FIRE FLOW shall mean the relationship of physical characteristics of a building, its use, and its immediate surroundings to the amount of water measured in Gallons Per Minute (GPM) necessary to extinguish the most serious fire likely to occur in it. The required Fire Flow shall be determined by use of the formula derived and established by the Insurance Service Office of the Municipal Service which formula shall be as follows:

$$\text{REQUIRED FIRE FLOW (GPM)} = (18 \times C \times \text{AREA}^{0.5}) \times O \times E \times FP$$

WHERE:

C = Construction type factor
Area = Structure fire flow area

- O = Occupancy Hazard classification factor
- E = Exposure Factor
- FP = Fire protection system factor

9. SINGLE-FAMILY RESIDENTIAL (SFR) PARCEL shall mean a developed parcel containing one residential structure with no more than one detached dwelling unit, situated upon a single parcel. Improved property may be classified as SFR even if supplemental accessory structures are present such as garages, carports, storage buildings, guest houses, cottages or barns, or the presence of a commercial use within the residence, as long as such use does not materially alter the single-family residential structure or necessitate additional needed fire flow. SFR properties shall not include improved property containing structures used primarily for non-residential as defined herein; manufactured home located within Manufactured Home Parks where the land is owned by someone other than the owners of the manufactured homes; residential condominium developments with more than two units; or vacant/undeveloped property.
10. UNDEVELOPED PARCEL shall mean a parcel with no habitable structures or significant improvements located within the parcel boundaries.
11. DISTRICT shall mean the American Canyon Fire Protection District

Section 204 – IMPOSITION

There is hereby imposed upon owners of all structures and unimproved parcels located within the District an annual Fire Service Fee.

Section 205 – FEES

The fee imposed by this Article shall be measured by the Fire Flow demands required by the structure(s) located on the real property and or foliage there on, and shall be established taking into consideration the following factors:

1. Fire Fee Parcel Classes.

Specified parcel classes reflect differences in building structures and contents; needed fire flow; fire protection services provided by the District to the property; and the respective demand that those parcels place on the District's operations and equipment and fire protection services.

The Fire Fee Parcel Classes will encompass all developed and undeveloped parcels within the District's boundaries and are defined as follows: 1) The SFR class shall consist of all developed parcels classified as SFR per the applicable definition. 2) The NSFR class shall consist of all developed parcels classified as NSFR per the applicable definition. 3) The Undeveloped class shall consist of all parcels classified as undeveloped per the applicable definition.

2. Fire Fee Charge Rates.

The District shall continue to impose a Fire Fee on all parcels within the service area in a fair and equitable manner, as authorized by the District's voters in 1980. The Fire Fee shall be apportioned to all parcels based on the demand the parcel places on the District and the fire protection services provided.

Fire Fee rates shall be set for SFR and NSFR parcels at the time a building permit is issued or shall be characterized as Undeveloped with the fee set at the appropriate rate as identified in this Ordinance. All Fire Fees may be increased annually for inflation based on the District's cost of providing services to its service area. The annual inflationary adjustment can be based on the change in the California Consumer Price Index from January to January of each year.

The basis for the calculation of the Fire Fee to all parcels within the District is defined in this ordinance. The District shall assign or determine the Parcel Class, calculated fire flow, and other pertinent factors as may be needed for the fair, reasonable and equitable allocation of the costs to deliver fire protection services and to calculate the Fire Fee for all parcels in the District.

The Fire Fee shall be based upon the total number of EDUs associated with property located in the District. The Fire Fee per EDU for the 2013-14 fiscal year shall be set at \$86.38.

The number of EDUs that will be utilized to calculate the Fire Fee shall be in general accordance with the following:

- 1) SFR Class: Each SFR parcel shall be charged 1.0 EDUs, except as noted herein.
 - a. Duplex properties consisting of two attached SFR units shall be charged 2.0 EDUs; likewise triplex properties consisting of three attached SFR units shall be charged 3.0 EDUs.
- 2) NSFR Class: Each NSFR parcel shall be charged 1.0 EDU for each 500 gpm, or increment thereof, of calculated fire flow for the parcel to establish the total number of EDUs for the fee. Fractional EDUs will be rounded to the nearest 0.25 EDU.
 - a. A single-wide Mobile/Manufactured Home structure located within a Mobile/Manufactured Home Park that is under a single landlord/ownership entity shall be charged 0.5 EDUs.
 - b. A double-wide Mobile/Manufactured Home structure located within a Mobile/Manufactured Home Park that is under a single landlord/ownership entity shall be charged 0.75 EDUs.
- 3) Undeveloped Property Class: Each undeveloped parcel shall be charged in accordance with the table below to establish the total number of EDUs.
 - a. Needed fire flow for an undeveloped parcel will be charged in accordance with the following table:

Calculating Fire Flow for NSFR Parcels

Calculating Fire Flow for the purpose of the District’s Fire Fee is based on the relationship of physical characteristics of a building, its use, and its immediate surroundings to the amount of water measured in Gallons Per Minute (gpm) necessary to extinguish the most serious fire likely to occur in it. The calculated Fire Flow shall be determined per building located on each taxable parcel by the use of the following formula and values:

Type of Parcel	Property Size	EDU
	0-10 acres	0.5
Industrial Vacant	> 10 acres	1.25
	0-5 acres	0.5
Commercial Vacant	> 5 acres	1.25
Single Family Vacant Lot	Any acreage	0.15

$$\text{REQUIRED FIRE FLOW (GPM)} = (18 \times C \times \text{AREA}^{0.5}) \times O \times E \times \text{FP}$$

WHERE:

- C = Construction type factor
- Area = Structure fire flow area
- O = Occupancy Hazard classification factor
- E = Exposure Factor
- FP = Fire protection system factor

4. Determining Construction Type Factor

The Construction type factor shall be set based on the structure of the building and classified in one of three categories: Ordinary Construction, Noncombustible Construction or Fire-Resistive Construction.

- (1) Ordinary Construction shall be defined as any structure in which the structural members are wholly or partly of wood or other combustible materials.
- (2) Noncombustible Construction shall be defined as any structure having all structural members including wall, columns, piers, beams, girders, trusses, floors and roofs of noncombustible material and not qualifying as fire-resistive construction.
- (3) Fire-Resistive Construction shall be defined as any structure that is considered fire-resistive by any of the model building codes.

Type of Construction	Construction Type Factor
Ordinary Construction	1.5
Noncombustible Construction	1.0
Fire-Resistive Construction	0.8

5. Determining Area

The Area shall be determined by calculating the total floor area of all floor levels within the exterior walls, and under the horizontal projections of a roof of a building expressed in square feet.

6. Determining Occupancy Hazard Classification Factor

Each NSFR building shall be classified in one of three occupancy hazard classifications: Low Hazard, Medium Hazard or High Hazard. (See Appendix A for a listing of the types of occupancies in each classification). The factor applied to the fire flow formula for each occupancy hazard classification is as follows:

Occupancy Hazard Classification	Occupancy Factor
Low Hazard	0.8
Medium Hazard	1.0
High Hazard	1.2

7. Determining Exposure Factor

Adjoining and connecting buildings can impact the fire flow requirement for a given building. Therefore, an adjustment is made to the fire flow calculation to account for the level of exposure of the building, as follows:

Exposure	Exposure Factor
No Exposure	1.0
Low Exposure	1.125
High Exposure	1.15

8. DETERMINING FIRE PROTECTION SYSTEM FACTOR

The presence of a fire protection system can reduce the required flow. An adjustment is made to the calculated fire flow for the presence of a fire protection system based on the following factors:

Fire Protection System	Factor
Yes	0.75
No	1.0

Section 206 - CEILING ON FEES. LIMITATIONS.

Growth in appropriations generated by the Fire Service Fee shall be controlled by Article XIII B of State Constitution, as approved by the voters and shall not exceed the percentage of increase in the cost of living and/or population.

It shall be required that moneys in excess of amounts appropriated in a given fiscal year be returned to the taxpayers in the form of rebate or other appropriate credit.

Section 207 - BOARD OF REVIEW

A. A special fire protection fee Board of Review is hereby created. The Board shall consist of the Chairperson or Vice Chairperson of the District, and two (2) citizens of the District, not otherwise employed by the District and holding no other District office.

Each citizen member of the Board shall be appointed by the District Board of Directors for a term of two (2) years. The terms of members first appointed shall be as follows: One (1) member shall be appointed for a period of (1) year; and One (1) member shall be appointed for a period of two (2) years.

B. Duties of the Board. The Board shall hear review and make recommendations as to reasonable interpretations of the provisions of this ordinance.

C. Boards Operation. The Review Board shall select its own Chairperson, adopt its own procedural rules and shall keep a record of its proceedings and transactions.

D. Quorum. Only all members of the Board of Review shall constitute a quorum, but no member of the Board of Review shall take any official action on any matter on which he has any financial interest other than the common public interest.

Section 208 - STATEMENT OF FIRE SERVICE FEES.

The Fire Chief, no later than September 1, of each year, shall prepare and file with the Board of Directors of the District a statement of fire service fees due and payable for the current fiscal year. Said statement shall list all properties and owners subject to the fee and shall, as to each property, identify the name of the owner or owners, the parcel number of the property, the address of the property to be charged, the required fire flow assigned to the property and the amount of the fee.

Section 209 - FIRE SERVICE FEES.

Within five (5) days after filing of the statement referred to in Section 208, the Clerk to the Board of Directors shall cause to be conspicuously posted in at least three (3) places within the community a notice substantially in the following form:

NOTICE RE EQUALIZATION OF FIRE SERVICE FEE

NOTICE IS HEREBY GIVEN that the Fire Service Fee Board of Review will hear protests or objections to fire service fees for the purpose of correction, modifying or confirming the same on the ___ day of _____, 20____, in the Fire Station, at 911 Donaldson Way East, beginning at the hour of 7:30 p.m. of said day. Said hearing will be orally renoticed by the Chairperson of said Board of Review at the conclusion of said hearing to a later date for hearing before the Board of Directors regarding any protests remaining unresolved. The failure to make objections or protests at said hearing shall be deemed to be a waiver of same. A statement showing all property affected and the respective fees charged against the same is now on file in the office of the Fire Chief, at 911 Donaldson Way East and is open to public inspection.

Dated this ____ day of _____, 20____.
Clerk of the Board of Directors, of the
American Canyon Fire Protection District

Section 210 - NOTICE OF FIRE SERVICE FEE DUE

The Clerk of the Board of Directors shall prepare a notice of fire service fee due substantially in the following form:

NOTICE RE EQUALIZATION

NOTICE IS HEREBY GIVEN that the Fire Service Fee Board of Review will hear protests or objections to fire service fee for the purpose of correction, modifying or confirming the same on the ____ day of _____, 20____, in Fire Station of said District beginning at the hour of 7:30 p.m. of said day. Said hearing will be orally renoticed by the Chairperson of said Board of Review at the conclusion of said hearing to a later date for hearing before the Board of Directors regarding any protests remaining unresolved at the conclusion of the Fire Service Fee Board of Review hearing.

The failure to make objections or protest at said hearing or hearings shall be deemed to be a waiver of same.

A Statement showing all property affected and the respective fees charged against the same is now on file in the office of the Fire Chief of said District, and is open to public inspection.

The verified statement indicates that the property described has incurred a fee in the amount of \$ ____.

Dated this ____ day of _____, 20____.
Clerk of the Board of Directors,
American Canyon Fire Protection District,
American Canyon, CA.

Section 211 – SERVING NOTICE OF AMOUNT OF VERIFIED EXPENSE.

The Clerk shall, within five (5) days after the filing of Statement referred to in Section 208 by the Fire Chief, give notice of the amount of fire service fees incurred, in the form provided by Section 210 by depositing said notice in the United States Mail at American Canyon, California, postage prepaid, addressed to the owner, agent of the owner, lessee, occupant, or person in possession of the premises described in said statement of expenses, at his last known address, and if no address is known or made known to the Fire Chief, then to the general delivery at the Post Office serving American Canyon, California. Provided however, that no notice, or any publication of any notice, order, resolution or other matter provided for in this Section shall be necessary to give validity to any of the proceedings provided for in this

Article.

Section 212 – PAYMENT OF FEES

The owner, or other persons interested in the premises, shall pay the fees thereon to the County of Napa Tax Collector, in accordance to procedures of applicable law. The County Tax Collector shall cause all monies collected hereunder to be paid into the County Treasurer without delay.

Section 213 – STATEMENT OF AMOUNTS UNPAID. PENALTY.

A statement of all amounts remaining unpaid, verified by the Clerk to the Board giving the description of the respective pieces or parcels of land upon which such charges exist shall immediately thereupon be prepared by the Clerk, and shall be immediately forwarded to and filed with the Tax Collector, who shall thereupon cause an entry to be made on the tax roll opposite the description of the property therein described as “Fire Service Fee \$_____”, filling in the amount of the expense shown in the statement of the Clerk in each particular case, plus an administrative penalty equal to the expense of collection. The Tax Collector shall thereafter cause a corresponding entry to be made on the tax bill for the said property; and thereafter before any payment shall be received for any tax for the redemption of the said property, the said amount of fire service fee shall be paid.

Section 214 – MANNER OF COLLECTION.

In all respects, other than as in this Ordinance recited, said fire service fees shall be collected and the collection thereof enforced, in the same manner, under the same conditions, and pursuant to the same notices, as taxes upon real property in the community.

Section 215 – REFUND OF FEES ERRONEOUSLY COLLECTED.

Any fire service fees, penalties or costs thereon paid more than once, or erroneously, or illegally collected by reason of a clerical error, may, by order of the Board of Directors be refunded by the County Auditor, provided, however, that no Order of the Board of Directors to refund of fees, penalties, or costs, shall be made except upon a verified claim therefore, filed within six months after making of the payment sought to be refunded, or in the case of a double assessment of such fees, within two years after such payment.

Section 216 – INVALIDITY PROVISION.

It is hereby declared to be the intention of the Board of Directors that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

The foregoing ordinance was **PASSED, APPROVED AND ADOPTED** as an urgency measure at a regular meeting of the Board of Directors of the American Canyon Fire Protection District, a Subsidiary Special District of the City of American Canyon, State of California held on the 30th day of July, 2013 by the following vote:

Chairman Garcia: yes
Vice Chair Joseph: yes
Board Member J. Bennett: yes
Board Member B. Bennett: yes
Board Member Leary: yes

Leon Garcia
Leon Garcia
Chairman of the Board

ATTEST:

Glen E. Weeks
Glen E. Weeks, District Clerk

APPROVE AS TO FORM:

William D. Ross
William D. Ross, District Counsel