

ORDINANCE No. 2012-02

AN ORDINANCE OF THE AMERICAN CANYON FIRE BOARD OF DIRECTORS APPLYING THE NEW ORDINANCE OF THE AMERICAN CANYON FIRE PROTECTION DISTRICT ESTABLISHING A SCHEDULE OF FEES FOR RECOVERY OF COSTS FOR SERVICES PROVIDED

WHEREAS, the costs of providing fire protection and life safety services continues to increase; and,

WHEREAS, the American Canyon Fire Protection District ("District") is funded by taxes levied on real property located within the geographic boundaries of the District; and,

WHEREAS, numerous services offered by the District directly benefit discreet portions of the general public for which fees may be properly imposed; and,

WHEREAS, pursuant to Health and Safety Code Section 13916 (b), and Government Code Section 6066, the District has given notice of its intent to establish and impose such Fees/Charges as may be adopted by Ordinance;

WHEREAS, Health and Safety Code Section 13917 provides that the schedule of fees established by such an ordinance must indicate an amount to be charged; and,

NOW THEREFORE BE IT RESOLVED THAT the Board of Directors ("Board") of the District declares as follows:

SECTION 1. Authorization and Purpose

This Ordinance is adopted pursuant to Health and Safety Code Section 13916 *et seq.* The purpose of the Ordinance is to recover for the District costs of providing enforcement of locally adopted life safety regulations and local enforcement of state-regulated occupancy requirements, mandated programs and other fees for services. Except as otherwise provided, the definitions of the Fire Protection District Law of 1987 (Health and Safety Code Sections 13800 *et seq.*, the "Act") are incorporated by this reference. The Ordinance shall be interpreted in a manner consistent with the Act. The fees and charges imposed by this Ordinance are for the purpose of meeting certain operating expenses, including employee wage rate and benefits, contracting for services with specialized firms or individuals, and we find the fees to be reasonably related to the actual expenses incurred by the District for the services and expenses described in this Ordinance.

SECTION 2. Applicability; Subsequent Fee Changes

This Ordinance shall indicate each fee and the amount to be charged by the District, as permitted by Health and Safety Code Section 13917. As authorized by Health and Safety Code Section 13918, public agencies that are not covered by a mutual aid agreement shall be charged accordingly, unless the District waives the involved fees pursuant to Section 4 of this Ordinance.

By adopting such Ordinance, the District is enacting user fees to defray costs associated with enforcement of state required occupancies, mandated programs, annual fire safety inspections, development plan review, permits for certain activities, District facility usage, and general service functions as permitted by this Ordinance.

All subsequent changes or amendments to the fees contained in the Ordinance may be accomplished by a duly noticed Resolution of the District.

SECTION 3. Schedule of Fees

The Schedule of Fees adopted by the District and incorporated by reference into this Ordinance is attached hereto as Exhibit A. All plan check, construction inspections and/or fire inspections, and permits required by the California Fire Code, District Ordinance, or California Office of the State Fire Marshal shall be subject to the adopted user fees contained in Exhibit A.

SECTION 4. Waiver of Fees

As permitted by Health and Safety Code Section 13919, the District Board may waive charges/fees established by this Ordinance and may delegate its authority to the Fire Chief or his/her designee as set forth in the Resolution if determined that charges/fees would not be in the public interest, i.e. reciprocal services provided by other public agencies, employee welfare, personal hardship.

SECTION 5. Specified Fee

Unless waived pursuant to Section 4, every public agency and/or party involved shall pay a specified fee pursuant to this Ordinance which specifies the services provided. The rates for services shall be set by the District Board and shall not exceed the reasonable amount necessary to recover the costs of providing the specified service as allowed by law.

SECTION 6. Service Charge

Unless waived pursuant to Ordinance Section 4, every public agency and/or party involved shall be responsible for a Service Charge which, for these services, shall include a Service Rate and an Equipment Rate, if applicable, pursuant to the rates established in the Ordinance Section 9 under General Fees.

The "Service Rate" shall be the fee set forth pursuant to Exhibit A.

The "Equipment Rate" is the rate at which the District will require repayment for use of any District utilized property as set forth in Exhibit A.

SECTION 7. No Waiver of Other Means of Cost Recovery

This Ordinance does not preclude the District from pursuing any additional means of cost recovery. Such means include, but are not limited to, actions pursuant to Health and Safety Code Section 13009 (for negligent actions which cause the use of services or facilities of the District) and actions against parties whose willful, grossly negligent, or criminal conduct causes the use of District services or facilities.

SECTION 8. Severability

If provisions of this Ordinance are declared invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining fees or provisions and the Board declares that it would have adopted each article, section and part of this Ordinance, irrespective of the validity of any article, section or part.

SECTION 9. Repeal of Conflicting Ordinance and Resolution

All parts of District Ordinance 90-03 shall be repealed in concurrence with the effective date of this Ordinance No. 2012-02.

SECTION 10. Effective Date

This Ordinance shall take effect and be in full force beginning July 5, 2012 after its final passage and adoption.

The foregoing ordinance was **PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of American Canyon, State of California held on the 5th day of June, 2012 by the following vote:

Chairman Garcia: Aye
Vice Chair Coffey: Aye
Board Member J. Bennett: Aye
Board Member B. Bennett: Aye
Board Member Joseph: Aye

 Leon Garcia
Leon Garcia, Board President

ATTEST:

 Glen Weeks
Glen Weeks, District Clerk

APPROVED AS TO FORM:

 William D. Ross
William D. Ross, District Counsel