

**BEFORE THE BOARD OF DIRECTORS
OF THE RODEO-HERCULES FIRE PROTECTION DISTRICT**

In the Matter of the)	ORDINANCE NO. 98-1
Adoption of an Ordinance)	
to Levy a Supplemental)	
Assessment Fee for Fire)	
Suppression Services Within)	
the District)	
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ARTICLE I.

Purpose and Intent

It is the purpose and intent of this Ordinance to levy a Supplemental Fire Suppression Assessment on all parcels of real property within the Rodeo-Hercules Fire Protection District ("the District"), in order to provide funding for, and to improve fire protection, prevention, and suppression services of the District, thereby benefitting all parcels of property within the District. The Assessment provided for herein shall be in addition to and supplement the Fire Suppression Assessment currently levied by the District pursuant to District Ordinance No. 87-1, approved by a vote of property owners in February, 1997, pursuant to the provisions of Proposition 218. Nothing herein shall affect the validity or provisions of Ordinance No. 87-1.

This fee is a Fire Suppression special assessment fee within the meaning of Article 3 of the Government Code, commencing with Section 50078 et seq., and an assessment within the meaning of Proposition 218. This fee is not determined according to, nor in any manner based upon, the assessed value of property; this fee is based upon the improvements to and types of parcels and, the risk of fire attendant to such improvements and parcels.

The revenues raised by this fee are to be used for purposes which include, but are not limited to, obtaining, furnishing, operating, and maintaining fire suppression equipment or apparatus, stationhouse facilities, for paying the salaries and benefits of firefighting personnel, and for such other fire protection, suppression, or prevention expenses as are deemed appropriate by the Rodeo-Hercules Fire Protection District, or are authorized by Government Code Sections 50078 et seq. or any similar or successor statute.

ARTICLE II.

Definitions

The following definitions shall apply throughout this ordinance.

1. "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 of Contra Costa County. For purposes of this Ordinance, parcel does not include any land or improvements outside the boundaries of the Rodeo-Hercules Fire Protection District.
2. "Improved parcel" means any parcel of real property upon which any combustible improvement exists.
3. "Unimproved parcel" means any parcel of real property except an improved parcel.
4. "Improvement" means those items included within the Revenue and Taxation Code section 105 definition of improvement, except for (1) fences, poles, and walls that are not part of or connection to a structure and (2) trees and vines.
5. "Fiscal year" means the period of July 1 through the following June 30.
6. "District" means the Rodeo-Hercules Fire Protection District.

7. "Ad valorem real property taxes" means taxes on that secured roll real property which is subject to being sold for delinquency of such taxes. "Ad valorem property taxes" or "ad valorem real property taxes", therefore, includes taxes based on the March 1, 1975 value of real property and taxes based on the value of real property at date of change of ownership, completion of new construction, or purchase where such has occurred after March 1, 1975.

ARTICLE III.

A. Establishment of a Benefit Assessment Risk Schedule.

There is established by this ordinance a Benefit Assessment Risk Schedule, attached hereto as Exhibit "A" and incorporated by reference as though fully set forth herein, which schedule correlates fire suppression risk factors of incident frequency, fire flow requirements, life hazard, process hazard, exposure hazard, and mitigation factors to types of parcels within the District, determining risk factors associated the classes of uses, expressed as "Risk Units" on the schedule. The Schedule may be amended from time to time as determined necessary by the Board of Directors.

B. Uniform Schedule and Rates.

Pursuant to Government Code section 50078.2(a), the Benefit Assessment Risk Schedule establishes uniform schedules based on the type of use of property and the risk classification of structures and uses of property. The assessment is directly related to the benefits to the property assessment as set forth in A., above.

ARTICLE IV.

A. Setting the Supplemental Benefit Assessment Fee Rate.

The District's Board of Directors, prior to July 1, 1999, or as soon thereafter as the matter may be heard, shall set the fee for the initial fiscal year. Thereafter, at regularly scheduled meetings held prior to July 1 of each year, or as soon thereafter as the matter can be heard, the Board of Directors of the District shall set the Supplemental Benefit Assessment Fee Rate which shall be assessed for the next fiscal year, subject to the maximum fee rate of \$59.00 for a risk factor unit (Article IV C.).

B. Computation of Fees.

On March 1 of each year or upon such date as the tax collector deems appropriate, the tax collector shall identify parcels within the District that are subject to the assessment. The District shall also identify parcels within the District subject to the assessment. The use code found on the Benefit Assessment Risk Schedule for the parcels subject to the assessment is then used to determine the number of risk units for the parcel. The total of all risk units for all parcels subject to the assessment shall then be totaled to determine the District-wide "risk value." The District-wide "risk value" is the sum of the total number of risk units for all parcels subject to the assessment. The total revenue to be generated in the fiscal year is then divided by the total number of risk units to equal the benefit assessment fee rate.

The Benefit Assessment Fee to be levied on individual parcels is determined as follows: the fee rate is multiplied by the total number of risk units for a parcel on the basis of the Benefit Assessment Risk Schedule to arrive at the Assessment Fee for each parcel.

C. Maximum Fee Rate.

The maximum assessment fee rate for one risk factor unit shall be Fifty-Nine Dollars (\$59.00). The maximum assessment is determined by multiplying the fee rates times the risk units for a particular use.

D. Levy of Fees.

Prior to the end of each July, or as soon thereafter as the District Board can act, the District's Board of Directors shall levy the Benefit Assessment Fee upon the parcels in the Rodeo-Hercules Fire Protection District for the then current fiscal year. Fees levied on each parcel shall be a charge upon the parcel and shall be due and collectible as set forth in Article V., Collection and Administration. A complete listing of the amount of fees on each parcel shall be maintained and be available for public inspection at the District's administrative headquarters during the remainder of the fiscal year for which such fees are levied.

ARTICLE V.

Collection and Administration

A. Fees as Liens Against the Property.

The amount of fees for each secured roll parcel 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.

B. Collection.

The assessment on each parcel may be directly billed to the property owner or will be billed on the secured roll tax bills for ad valorem property taxes and shall be due the Rodeo-

Hercules Fire Protection District upon presentation of the bill. Insofar as feasible and insofar as not inconsistent with this Ordinance the assessments are to be collected by contra Costa County on behalf of the District in the same manner in which the County collects secured roll ad valorem property taxes. Insofar as feasible and insofar as not inconsistent with this Ordinance, the times and procedures regarding exemptions, due dates, installment payments, corrections, cancellations, refunds, penalties, liens, and collections for secured roll ad valorem property taxes shall be applicable to the collection of this assessment. Notwithstanding anything to the contrary in the foregoing, as to this assessment: (1) the secured roll tax bills shall be the only notices required the assessment except for properties not on the secured roll, (2) the appeal procedures set forth hereinbelow shall apply in lieu of appeals to the Assessment Appeals Board, and (3) the homeowners and veterans exemptions are not applicable, because such exemptions are a function of dollar amount of value, and this fee is a function of fire suppression risk factors relating to real property by classification.

C. Publication of Notice of Time Limit for Filing Appeals.

Within 20 days after the bills for the first installment of secured roll taxes have been mailed, the Board of Directors of the District shall cause a notice of the right to appeal to be published once a week for two weeks in a newspaper of general circulation throughout the District. Such notice shall be headed, "Notice of Appeals Period for Rodeo-Hercules Fire Protection District Supplemental Special Assessment Fee for Fire Protection and Prevention Services" and shall contain the precise wording of all of Article VI hereinbelow.

D. Costs of Administration by County.

The reasonable costs incurred by the County offices collecting and administering this fee

shall be deducted from the collected fees before remittal of the balance to the District.

ARTICLE VI.

Appeals

A. Applications for Reduction of Fees; Time Limit for Filing; Notice of Hearing; payment of Fees Pending Decision; Refunds.

Appeals of the amount of the special assessment fee for fire protection and prevention services for a parcel, or of any component of the fee, must be made by written application of the parcel owner to the District's Board of Directors and must be received in the District's administrative headquarters, Rodeo, California, no later than the 10th of September of any year. Any such appeal must set forth all facts upon which the parcel owner contends that the fees should be reduced. Any such appeal also must give the mailing address of the parcel owner, must specify by precise address or assessor's parcel number, the location of the parcel for which the fees are being appealed, and must contain a statement made under penalty of perjury that the facts set forth in the application are true. If the District's staff and the appealing taxpayer do not agree on a resolution of the issue(s) presented by the appeal, an application which complies with the requirements stated above shall be set for hearing before the Board of Directors of the District as soon as reasonably possible, and notice of such hearing shall be mailed to the appealing taxpayer at least ten (10) days in advance of the hearing. Filing of an appeal is not grounds for failing to timely pay the entire amount of fees specified as due on the tax bill. If fees are reduced or increased as a result of the decision of the Directors, the fees shall be refunded or collected, insofar as feasible, in the same manner as secured roll ad valorem property taxes are refunded or

collected after Assessment Appeals Board Hearings.

B. Hearing.

The parcel owner or his designated representative may, but need not, be present at the hearing. If present, the parcel owner or his designated representative may present any relevant evidence and may be examined under oath by the District's representative and the Directors. The District's representative may also present any relevant evidence and be examined under oath by the parcel owner or his designated representative, and the Directors. The burden of proof of any factual question shall be on the parcel owner. Within 40 days after the hearing, the Directors, by majority vote shall determine what, if any, component of the fee shall be reduced or increased, and by how much. If fees are to be reduced or increased as a result of the decision of the Directors, the fees shall be refunded or collected, insofar as feasible, in the same manner as secured roll ad valorem property taxes are refunded or collected after Assessment Appeals Board Hearings.

ARTICLE VII.

Severability Clause

If any articles, section, subsection, sentence, phrase, or clause 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 portion or portions of this Ordinance.

ARTICLE VIII.

Effective Date

The District's approval of this Ordinance 98-1 establishing a supplemental benefit

assessment is subject to the requirements of Proposition 218 providing for the submission of the matter of the levy of an assessment to a vote of the property owners of the District. The District has not received protests representing more than 50% of the revenues proposed from the assessment. Therefore, this Ordinance shall be effective immediately upon its approval by the Board of Directors.

ARTICLE IX.

Automatic Repeal

In the event that the District undergoes any involuntary merger, consolidation, dissolution, change in organization, reorganization, or other alteration of District boundaries and/or jurisdiction pursuant to the provisions of the Cortez-Knox Local Government Reorganization Act of 1985 (Government Code Sections 56000 et seq.) or any similar or successor statutes, at the election and option of the District's Board of Directors, this Ordinance shall become null and void, of no further force and effect, and no assessment may be levied subsequent to the effective date of any such change in District boundaries or organization. "Involuntary", as used herein, means any such changes in District boundaries, governance or organization not initiated or supported by a Resolution of the District Board of Directors.

X.

Duration of Ordinance

The duration of this Ordinance shall be for the maximum period allowed by law, unless earlier terminated by State legislative enactment or action of the District Board of Directors.

Pursuant to the terms of State Proposition 218, there is no time limit on the levy of benefit assessment, and it is the intent of the Board to levy the assessment yearly for the maximum period allowed by law.