

RESOLUTION NO. 21-127

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING THE CAPITAL FIRE FACILITIES AND EQUIPMENT PLAN AND ADOPTING AND IMPLEMENTING FIRE PROTECTION MITIGATION FEES FOR THE ANDERSON VALLEY COMMUNITY SERVICES DISTRICT PURSUANT TO MENDOCINO COUNTY CODE CHAPTER 5.36

WHEREAS, on October 17, 2006, the Board of Supervisors adopted Ordinance No. 4175, relating to fire protection mitigation fees, which was later codified as Mendocino County Code Chapter 5.36; and

WHEREAS, pursuant to Mendocino County Code Chapter 5.36, local fire protection districts may seek approval by the Board of Supervisors for the assessment and implementation of fire protection mitigation fees associated with new development within the boundaries of said districts; and

WHEREAS, the Anderson Valley Community Services District has adopted a resolution and a capital fire facilities and equipment plan pursuant to section 5.36.040 of the Mendocino County Code, and presented the same to the Clerk of the Board of Supervisors; and

WHEREAS, upon the implementation of said fire mitigation fee, the Anderson Valley Community Services District will comply with the provisions of Mendocino County Code Chapter 5.36.

NOW, THEREFORE, BE IT RESOLVED, that the Mendocino County Board of Supervisors hereby approves the resolution and capital fire facilities and equipment plan for the area within the district boundaries of the Anderson Valley Community Services District, in the form attached to this Resolution as Exhibit A, finding that the documents meet the requirements of Chapter 5.36 of the Mendocino County Code and Government Code section 66000 *et seq.*

BE IT FURTHER RESOLVED that the Mendocino County Board of Supervisors hereby approves a fire mitigation fee for, and to be collected by, the Anderson Valley Community Services District, with fees as specified in Anderson Valley Community Services District Resolution No. 2021-2 on applicants for development projects within the district boundaries of the Anderson Valley Community Services District, to be effective in 60 days (pursuant to Government Code section 66017) from the date of adoption of this resolution.

BE IT FURTHER RESOLVED that the Anderson Valley Community Services District is hereby directed to notify the County building official of the effective date of its mitigation fee.

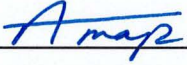
BE IT FURTHER RESOLVED that by March 31 of each year following the year of the original adoption of a resolution and approval by the Board of Supervisors of fire mitigation fees under Mendocino County Code Chapter 5.36, the Anderson Valley Community Services District shall submit a copy of a new resolution adopted by the District's governing body making the findings required by section 5.36.040(A) of said Chapter and identifying the fire mitigation fees requested by the fire district. If the resolution proposes to increase the fire mitigation fees, the resolution shall only become effective if approved by the Board of Supervisors in the manner set forth in section 5.36.40(D) of said Chapter 5.36. A revision of fire mitigation fees shall become effective the following July 1.

The foregoing Resolution introduced by Supervisor Williams, seconded by Supervisor Mulheren, and carried this 14th day of September, 2021, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams
NOES: None
ABSENT: None


WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board



Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel





DAN GJERDE, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board



Deputy

BOS Resolution Exhibit A

**RESOLUTION NO. 2021-02
OF THE BOARD OF DIRECTORS
OF THE ANDERSON VALLEY COMMUNITY SERVICES DISTRICT
March 23, 2021**

**RESOLUTION APPROVING THE ANDERSON VALLEY FIRE
DEPARTMENT FIRE IMPACT AND EMERGENCY RESPONSE FEE
NEXUS STUDY AND REQUESTING THE MENDOCINO COUNTY OF
BOARD OF SUPERVISORS ADOPT AND IMPLEMENT THE
PROPOSED FIRE IMPACT AND EMERGENCY RESPONSE FEE
PROGRAM ON BEHALF OF THE DEPARTMENT**

WHEREAS, the Board of Directors of the Anderson Valley Community Services District ("District"), recognizes that continuing development within the District places added responsibilities and cost to the Anderson Valley Fire Department ("Department"); and

WHEREAS, AB 1600 was adopted and codified in California Government Code Section 66000 allowing the establishing, increasing or imposing of a development fee as a condition of approval where the purpose and use of the fee were identified, and reasonable relationship to the development project was demonstrated; and

WHEREAS, the District Board of Directors ("District Board") desires to establish a new Fire Impact and Emergency Response Fee program ("Fees or Fee Program") for the Department to fund fire protection facilities, apparatus and equipment necessary to mitigate the impacts caused by new development with the Department's Sphere of Influence; and

WHEREAS, the County of Mendocino ("County") has, by Ordinance No. 4175, established and implemented a procedure for the adoption of such Fees and to ensure the imposition and collection of these Fees in connection with the issuance of building permits. The Fees are to be allocated to the District for the acquisition of capital facilities and equipment in order to ensure the provision of the capital facilities and equipment necessary to maintain current levels of fire protection services that are required as the result of new development projects within the boundaries of the Department's Sphere of Influence pursuant to County Code Chapter 5.36; and

WHEREAS, the District Board has received and considered the District's Fire Impact and Emergency Response Fee Nexus Study prepared by SCI Consulting Group dated July 2020 Final Report ("Nexus Study") that provides the required information to establish a new Fire Impact and Emergency Response Fee program.

NOW, THEREFORE, IT IS HEREBY RESOLVED that:

- 1) The District Board hereby receives and approves the Nexus Study.
- 2) Prior to the adoption of this Resolution, the District conducted a public hearing at which oral and written presentations were made, as part of the District's August 5, 2020, special Board meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, has been published twice in the local

newspaper. Additionally, at least 10 days prior to the meeting the District made available to the public, data indicating the amount of the cost, or estimated cost, required to provide the service for which the fee or service charge is to be adjusted pursuant to the Resolution by way of such public meeting, the District received the Nexus Study attached as Exhibit A, which formed the basis for the action taken pursuant to this Resolution.

- 3) After considering the Nexus Study, this Resolution, and after considering the testimony received at this public hearing, the District, hereby makes the following findings:
 - a) The Department does not have existing fire protection facilities and equipment that could provide an adequate level of services to new development within the Department's Sphere of Influence; and
 - b) The District does not have sufficient funds available to construct additional facilities and purchase additional equipment from fund balances, capital facility funds, property tax sources, fire suppression assessments, or any other available sources; and
 - c) The lack of additional fire protection facilities and equipment to service new development projects would create a situation that is dangerous to the public health and safety if fire protection mitigation fees are not levied within the District; and
 - d) The Fee Program and the Fees proposed in the Nexus Study and approved pursuant to this Resolution are for the purposes of funding the cost of fire protection and emergency response facilities, apparatus, and equipment attributable to new residential and nonresidential development in the Department's service area; and
 - e) The Fee proposed in the Nexus Study and approved pursuant to this Resolution will be used to expand the Department's facilities and equipment, and replace and expand the District's apparatus and vehicles to serve new development; and
 - f) The uses of the Fees proposed in the Nexus Study and approved pursuant to this Resolution are reasonably related to the types of development projects on which the fees are imposed in that fee revenue from the development projects will be used to expand the Department's facilities and equipment, and replace and expand the Department's apparatus and vehicles to meet the additional demand generated by the new residents and employees and new structural area created by the development projects; and
 - g) The Fees proposed in the Nexus Study, and approved pursuant to this Resolution, bear a reasonable relationship to the need for fire protection and emergency response facilities, apparatus, and equipment in that each development project will create additional need for the Department's fire protection and emergency response

services and a corresponding need for new or expanded facilities, apparatus, and equipment. The Fees will be imposed on different types of development projects in proportion to the additional service population generated and structural area created by new development projects; and

- h) The Nexus Study demonstrates that there is a reasonable relationship between the amount of the Fee and the cost of the fire protection facilities, apparatus, and equipment attributable to the development on which the Fee is imposed in that the costs are based upon the level of existing development served by the Department's existing fire protection facilities and applied proportionately land use categories in proportion to the need they create for expanded fire facilities, apparatus, and equipment.
- 4) The District finds pursuant to the California Environmental Quality Act ("CEQA"), this action is not a "project" because the Resolution provides a mechanism for funding fire protection and emergency response facilities, apparatus, and equipment but does not involve a commitment to any specific project for such purposes that may result in a potentially significant impact on the environment. (CEQA Guidelines § 15378.)
- 5) The District does hereby approve the following Fire Impact and Emergency Response Fees on new development which shall be collected upon issuance of a building permit:

<u>Land Use</u>	<u>Fees</u>
<u>Residential Development</u>	
Single Family Housing	<u>Per Living Area Sq. Ft.</u> \$2.13
Multi-Family Housing	\$2.54
Accessory Dwelling Unit	See Note
<u>Nonresidential Development</u>	
Retail / Commercial	<u>Per Building Sq. Ft.</u> \$2.14
Office	\$2.87
Industrial	\$2.25
Agriculture	\$1.31
Warehouse / Distribution	\$1.41

Note: Pursuant to Govt. Code § 65852.2(f)(3)(A), the Fire Impact and Emergency Response Fee for an accessory dwelling unit shall imposed proportionately in relation to the square footage of the primary dwelling unit. Accessory dwelling units less than 750 square feet of living area are exempt.

- 6) The Fees imposed under the County Ordinance 4175 shall only be used to expand the availability of capital facilities and equipment to provide fire services to new development projects; and
- 7) The District shall place all funds collected under Ordinance 4175 and all interest subsequently accruing on these funds in a separate budget accounting category, known as "Anderson Valley Fire Department Fire Impact and Emergency Response Fee", only for those purposes of providing capital improvements and equipment to serve new development projects; and
- 8) The District shall spend funds from the "Anderson Valley Fire Department Fire Impact and Emergency Response Fee" budget accounting category only for those purposes of providing capital improvements and equipment to service new development projects; and
- 9) The District shall submit an annual report no later than October 31st of each year to the Clerk of the Board of Supervisors. The report shall include, but not be limited to: the balance in the account at the end of the prior fiscal year, the Fees received, the amount and type of expenditures made and the ending balance in the fund. In addition, the annual report shall specify the actions the District's plans to take to mitigate the facility and equipment needs caused by the new development projects in a capital fire facilities and equipment plan adopted at a notice public hearing. The District shall make available, upon request by the Clerk of the Board, a copy of the annual audited report; and
- 10) The District shall make its records that justify the basis for the Fee amounts available to the public upon request; and
- 11) The District shall agree to indemnify and defend the County and its officers, agents, and employees from any claim, action, or proceeding that arises from or is in any way related to the Fees; and
- 12) For the fifth fiscal year following the first deposit into the "Anderson Valley Fire Department Fire Impact and Emergency Response Fee" account and every five (5) years thereafter, the District shall make all of the following findings with respect to any cash portion of the fees remaining unexpended or uncommitted in the account:
 - (a) Identify the purpose to which the fee is to be put;
 - (b) Demonstrate a reasonable relationship between the fee and the purpose for which it was charged;
 - (c) Identify all sources and amounts of funding anticipated to complete financing all incomplete improvements, and
 - (d) Designate the approximate dates on which complete funding is expected to be deposited into the account.

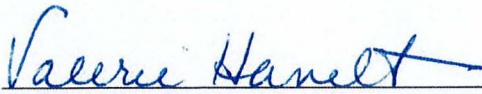
If the findings in subsections (12) (a) through (d) above are not made, the District shall refund, on a prorated basis, to the current record owner or owners of the development projects for which the fees were paid the unexpended and uncommitted portion of the fees and any interest accrued for which a need cannot be demonstrated.

IT IS HEREBY FURTHER RESOLVED that:

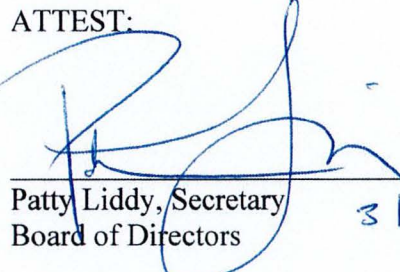
- 1) The District Board of Directors ("District Board") adopts the capital fire facilities and equipment plan, attached as Exhibit B, in compliance with Government Code Section 66002 at a noticed public hearing; and
- 2) The District will add a 10% charge to the Fee that reflects the District's reasonable costs of administrating the fee and complying with all laws, ordinances, and regulations related to the Fee, including the requirements imposed by the County's Fire Protection Mitigation Fee Ordinance; and
- 3) The "District Fire Protection Mitigation Fee" may be amended annually or from time to time in accordance with the procedures and based upon the findings for such fees set forth in Government Code Section 66000 et seq., or any applicable successor statutes; and
- 4) Subject to the County Board's approval, on July 1st of each fiscal year, beginning in July 2021, the Fire Chief, or his/her designee shall make automatic annual adjustments to the Fees by a percentage equal to the percentage change in the "Engineering News Record's Construction Cost Index-20 Cities annual Average" for the proceeding twelve (12) month period calculated from January 1 to December 31. This adjustment will offset the effects of inflation related construction cost increases (or any deflation related decreases). If this index should cease publication, the Fire Chief shall use any appropriate official index published by the Bureau of Labor Statistics, or successor, or similar agency as may then exist or may then be most nearly equivalent thereto. Land costs may be evaluated annual and adjusted as necessary based on the current market conditions at the time. The Fire Chief shall present the new Fees or adopting by resolution of the District Board after at least one public hearing; and
- 5) The District Board formally requests that the County impose the specified fire mitigation fee on the District's behalf and that the County Board authorize the District to collect the Fee from applicants prior to issuance of a building permit for new construction with the District's Sphere of Influence; and
- 6) If any portion of this Resolution is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining portions of this Resolution.

PASSED AND ADOPTED by the Board of Directors of the Anderson Valley Community Services District, at a special meeting held on the 23rd of March, Two-thousand and Twenty-one, by the following vote of said District Board:

AYES: HANELT, CHRISTEN, SODERMAN, MCKENNA
NOES: Ø
ABSTAIN: Ø
ABSENT: MAILLIARD



Valerie Hanelt, Chair
Board of Directors 3/23/2021

ATTEST:


Patty Liddy, Secretary
Board of Directors 3/23/2021

