

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE FIRE DEPARTMENT FEE SCHEDULE

WHEREAS, the Milpitas Municipal Code specifies that certain fees and charges shall be fixed by Resolution of the City Council; and

WHEREAS, those fees and charges are to be in amounts no greater than the reasonable costs of providing the service as incurred by the City and also in the amount specified through Council policy direction with respect to the functions to be performed by the City as supported by the information included in a staff report from Fire Marshal Albert Zamora, dated March 25, 2013, attached hereto as Exhibit A; and

WHEREAS, the Finance Department completed a cost allocation study and established Fire Department costs for service to be \$164 per hour, as reflected in the March 6, 2013 staff report attached to Exhibit A.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The various fees and charges set forth in the Fee Schedule attached hereto as Exhibit B do not exceed the reasonable cost of providing the service and comply with the Municipal Code requirement to assure recovery of the costs reasonably borne and shall become effective with the adoption of this Resolution and shall remain in effect until a new Resolution amending the same is adopted by the City Council.
3. The fees and charges established by this Resolution shall supersede all previously established fees or charges for the same regulations, project or service, and all such previous fees and charges are repealed on the effective date of this Resolution of the City Council as provided in Section IV-3-4.00 of the Milpitas Municipal Code. All other fees shall remain in effect.
4. This Resolution shall become effective on July 1, 2013.

PASSED AND ADOPTED this _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

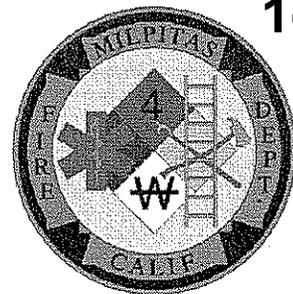
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

MEMORANDUM

Office of the Fire Marshal



DATE: March 25, 2013

TO: City Council

THROUGH: Tom Williams - City Manager, Mike Ogaz -City Attorney, Brian Sturdivant - Fire Chief

FROM: Albert C. Zamora, PE - Division Chief / Fire Marshal 

RE: Fire Department Fee Schedule Adjustments & Recommendations for Approval

Purpose

Fees for service are periodically adjusted to stay current with costs for service. Most fire agencies adjust their fees on either a cyclical or annual basis. The Milpitas Fire Department's most recent adjustment occurred back in 2007.

Background

California Health & Safety Code Sections 13143, 13145 and 13146, provides the authority and statutory provisions to enforce regulations and building standards relating to fire and panic safety as adopted by the State Fire Marshal and published in the State Building Standards, as well as other regulations that have been formally adopted by the State Fire Marshal and the Milpitas Municipal Code.

Pursuant to Section 1.11, Office of The State Fire Marshal, of the 2010 Edition of the California Fire & Building Codes, the applicable uses and occupancies that are inspected and regulated by the Fire Prevention Division of the Milpitas Fire Department includes the following but not limited to:

- Institutional, Educational, or any similar occupancy
- Assembly or similar Place of Assemblage
- Small & Large Family Daycare Homes
- Residential Care Facilities
- Hi-Rise Structures
- Multi-Residential Occupancies

- Tents, Awnings or Other Fabric Enclosures used in connection with any occupancy
- Fire Alarm Devices, Equipment, and Systems in connection with any occupancy
- Hazardous Materials
- Flammable and Combustible Liquids
- Wildland-Urban Interface Fire Area

The Fire Department Fee Schedule is a function of two basic components; the time required to conduct the service and the hourly rate that is approved by the City Council. Section 66014 of the Government Code as referenced in Section 13146 of the Health & Safety Code, and Section 1.11.2.1.1 of the 2010 Fire & Building Codes, allows fire departments to charge fees for permit and inspection activities so as long as the fees “do not exceed the amount reasonably necessary to recover the costs”. In 2003 and 2007, the Fire Prevention Division staff conducted an extensive review of the time component associated with the permit and inspection activities. In 2011, we conducted another review and determined that the time component was still consistent with the time component that was established in 2007. In 2012, a subsequent review of the time component was conducted and resulted in several changes; streamlining the methodology of how fire sprinkler and fire alarm systems fees are calculated, and the new required tasks associated with two state unfunded mandates that impact the Hazardous Materials Program – California Environmental Reporting System (CERS) and the Aboveground Petroleum Storage Act (APSA).

Analysis

General

The current hourly rate charged by the Fire Department for permit and inspection fees is \$143 per hour, which was approved at the December 11, 2007 City Council Meeting.

In order to reflect the current cost for permit and inspection services in 2013, the hourly rate needs to be increased to \$164 per hour. The methodology for calculating this rate requires taking the direct costs of providing services (e.g., personnel and supply costs) and adding them to the indirect costs (e.g., centralized overhead services from departments like Human Resources, Information Systems, and Finance). NOTE: See Attachments; *Finance Department Calculation for Full Cost Recovery Hourly Rate - Fire Inspector & Fire Protection Engineer*, and *Finance Director Memorandum Dated March 6, 2013 - Methodology of Calculating of Full Cost Recovery Hourly Rate for Fire Prevention Services*.

Comparatives

A recent survey and review of the same (5) jurisdictions that were used back in 2007 was conducted in terms of their respective current hourly rates and yielded the following results:

HOURLY RATE COMPARISON BY JURISDICTION

| CITY | HOURLY RATE FY12/13 | HOURLY RATE FY13/14 |
|---------------|---------------------|---------------------|
| MOUNTAIN VIEW | \$158.00 | \$160.00 |
| SANTA CLARA | \$160.00 | \$164.00 |
| PALO ALTO | \$160.00 | \$160.00 |
| SAN JOSE | \$166.00 | \$166.00 |
| SUNNYVALE | \$181.00 | \$181.00 |
| MILPITAS | \$143.00 | \$164.00 Proposed |

Given the current hourly rate of \$143 per hour and the proposed increase hourly rate of \$164 per hour, the overall percent increase is 15%.

Proposed Major Fee Schedule Changes

Fire Sprinkler Systems

Under the current fee structure using the proposed \$164 hourly rate, there are 4 Tiers of charges that are a function of the area that involves the proposed fire sprinkler work:

- (< 2K SF) = \$492 base fee
- (2K to < 10K SF) = \$1148 fee
- (10K to < 50K SF) = \$2296 fee
- (\geq 50K SF) = (.0003 hrs/SF x SF x Hourly Rate) fee

The new fee structure per the \$164 hourly rate only uses 2-Tiers of charges:

- (\leq 2K SF) = \$492 base fee
- (> 2K SF) = \$492 + (.0007 hrs/SF x {SF - 2K SF} x Hourly Rate) fee

This revised formula is proportional to the area and commensurate with the time to perform the work.

Fire Alarm Systems

Under the current fee structure using the \$164 hourly rate, there are 4 Tiers of charges that are a function of the area that involves the proposed fire alarm work:

- (< 5K SF) = \$656 base fee
- (5K to < 10K SF) = \$984 fee
- (10K to < 50K SF) = \$1476 fee
- (\geq 50K SF) = (.00025 hrs/SF x SF x Hourly Rate) fee

The new fee structure per the \$164 hourly rate only uses 2-Tiers of charges:

- (\leq 5K SF) = \$656 base fee
- (> 5K SF) = \$656 + (.0006 hrs/SF x {SF-5K SF} x Hourly Rate) fee

This revised formula is proportional to the area and commensurate with the time to perform the work.

California Environmental Reporting System (CERS)

Under Assembly Bill 2286, all hazardous materials regulated businesses are required to use the internet to submit Uniform Program information, previously filed by paper forms, via the California Environmental Reporting System (CERS), or a local web portal. Additionally, all local implementing government agencies are required to report inspection and enforcement actions via the internet. The Milpitas Fire Department and the Santa Clara County Health Department will exchange data identified under Title 27 of the California Code of Regulations via a County web portal.

A CERS fee shall be assessed if the total on-site quantity of all hazardous materials exceeds the CERS reporting threshold specified in the Health and Safety Code, Chapter 6.95, Section 25503.5. Furthermore, a CERS fee will be assessed for projects associated with the installation / modification of APSA and all Underground Storage Tank (UST) systems.

This unfunded state mandate requires additional work to be conducted by the local Fire Department which will result in additional personnel time; 1 hour of plan review and 1 hour of inspection time where applicable.

MEMORANDUM

Department of Finance



To: Albert Zamora, Fire Marshall

From: Emma C. Karlen, Director of Financial Services

Subject: **Methodology for Calculating the Full Cost Recovery Hourly Rate for Fire Prevention Services.**

Date: March 6, 2013

Effective July 1, 2012, the full cost recovery hourly rate for Fire Prevention Division was determined to be approximately \$164. The full cost of providing fire prevention services includes direct cost such as personnel costs and supplies, and a portion of the indirect costs consisting of department administration and centralized internal service costs (commonly known as overhead costs). The indirect costs were allocated to the Fire Prevention Division using cost allocation formula, based on Cost Allocation Study conducted in 2007. As determined by that study, Fire Prevention Division's indirect costs represent approximately 20% of its direct costs. To derive the full cost recovery hourly rate for Fire Prevention, the sum of the direct costs and the allocated indirect costs were divided by the number of work hours in that division.

Fire Inspector/Fire Protection Engineer Hourly Rate

| | <u>2007/2008</u> | <u>2012/2013</u> |
|-------------------------------------|------------------------------|------------------------------|
| Direct Cost: | | |
| Salary & Benefits | \$ 187,763 | \$ 201,859 |
| Services & Supplies | <u>25,784</u> | <u>43,076</u> |
| subtotal | 213,547 | 244,935 |
| Indirect Cost: | | |
| Administration Overhead (20%) | <u>42,709</u> | <u>48,987</u> |
| Total Full Cost | <u><u>\$ 256,256</u></u> | <u><u>\$ 293,922</u></u> |
| Hourly rate | \$ 143 | \$ 164 |
| Percentage increase since FY2007/08 | | 15% |

Exhibit B

1-B

25-Apr-13

PROPOSED FIRE DEPARTMENT FEE SCHEDULE - 2013

| Activity | Permit Fee |
|---|----------------|
| ANNUAL OPERATIONAL PERMITS | |
| Life Safety Operational Permits | |
| A-1 Occupancy (theaters and other similar viewing halls) | \$656.00 |
| A-2 Occupancy (food and drink establishment) | \$492.00 |
| A-3 Occupancy (worship, recreation or amusement) | \$492.00 |
| A-4 & A-5 Occupancy (indoors or outdoors sports event structures) | \$1,148.00 |
| High Piled Storage | \$656.00 |
| Malls | \$1,148.00 |
| Motels | \$492.00 |
| Hotels and multi-story structures (< 5 stories) | \$984.00 |
| Hotels and multi-story structures with 5 or more stories. 1.5 HR per floor for insp. Fee = (Number of floors * 1.5HR) * \$/HR | per fee factor |
| Commercial Daycare - small (< 100). Children or elderly care. | \$328.00 |
| Commercial Daycare - large (≥ 100). Children or elderly care. | \$656.00 |
| Residential - Small Family Daycare | no fee |
| Residential - Large Family Daycare | \$82.00 |
| Residential Elderly Care | no fee |
| Small Apartments (3 - 4 units) | \$246.00 |
| Medium Apartments (5 - 15 units) | \$984.00 |
| Large Apartments (more than 15 units) | \$1,312.00 |
| Other miscellaneous annual Life Safety inspection. (1 HR minimum) | \$164.00 |
| Hazardous Materials Operational Permits | |
| Small Chemical User (doctor/dentist, dry cleaner, photo shop, graphic design, print shop, auto repair, retail sales with propane) | \$574.00 |
| Medium chemical User (body shop, research and design, analytical labs, pool supplies) | \$984.00 |
| Large Chemical User (semiconductor or similar facilities) | \$1,476.00 |
| Plating Shops | \$1,148.00 |
| Small Toxic Gas - Annual Monitoring Certification | \$656.00 |
| Large Toxic Gas - Annual Monitoring Certification | \$1,312.00 |
| Underground Tanks | \$656.00 |
| Urban Runoff Inspections (industrial) | \$328.00 |
| Urban Runoff Inspections (restaurants-once every 2 years) | \$328.00 |
| Other miscellaneous annual Haz. Mat. inspections (1 HR minimum) | \$164.00 |

| Activity | Permit Fee |
|---|------------------|
| CONSTRUCTION REVIEW/PERMIT/INSPECTION | |
| Planning Permits/Reviews | |
| Project Development and EIR review | \$1,312.00 |
| Consultative meetings over 1 hour duration | \$492.00 |
| Planning Applications. Fee = hours * hourly rate (Std. Or OT rate) | HR * \$/HR |
| Building Life/Safety | |
| Demolition (interior, or partial building, misc. demolition) | \$328.00 |
| Demolition (complete building with/without site demolition) | \$492.00 |
| Grading (< 1 acre) | \$328.00 |
| Grading (1 to 5 acres) | \$492.00 |
| Grading (≥ 5 acres) | \$656.00 |
| Site Improvements (< 1 acre) | \$492.00 |
| Site Improvements (1 to < 5 acres) | \$984.00 |
| Site Improvements (≥ 5 acres), 2 HR / acre or fraction thereof (plan check and inspection included). Fee = (Acres * 2HR) * \$/HR | per fee factor |
| New Building Shell (< 5K SF) | \$492.00 |
| New Building Shell (5K to < 25K SF) | \$984.00 |
| New Building Shell (25K to < 50K SF) | \$1,476.00 |
| New Building Shell (≥ 50K sf). Fee = .0002 HR/SF * SF * \$/HR | per fee factor |
| New Building w/ Improvements (< 5K SF) | \$492.00 |
| New Building w/ Improvements (5K to < 25K SF) | \$1,312.00 |
| New Building w/ Improvements (25K to < 50K SF) | \$2,460.00 |
| New Building Shell with Improvements (≥ 50K sf). Fee = .0003 HR/SF * SF * \$/HR | per fee factor |
| Addition, Alteration (< 5K SF) | \$492.00 |
| Addition, Alteration (5K to < 25K SF) | \$1,312.00 |
| Addition, Alteration (25K to < 50K SF) | \$2,460.00 |
| Addition, Alteration (≥ 50K SF). Fee = .0003 HR/SF * SF * \$/HR | per fee factor |
| Over-the-Counter | per fee schedule |
| Plan Check by Appointment | per fee schedule |
| Missed Plan Check by Appointment | \$164.00 |
| Revision to Project. Fee = HR * \$/HR. (Minimum 1 HR) | per fee factor |

| Activity | Permit Fee |
|--|-------------------|
| CONSTRUCTION REVIEW/PERMIT/INSPECTION (continue) | |
| Tents, canopies, membrane structures | |
| 4 or less | \$492.00 |
| 5 or more | \$656.00 |
| Temporary Assembly (indoors or outdoors, with or without tent) | |
| Occupancy 50-299 | \$492.00 |
| Occupancy 300-999 | \$820.00 |
| Occupancy 1000 and greater | \$1,312.00 |
| Fire Extinguishing Systems | |
| Fire service underground repair, (each) | \$328.00 |
| Fire service underground new or replace, (each) | \$820.00 |
| New, Addition, Alteration to Sprinkler System (< 2K SF) | \$492.00 |
| New, Addition, Alteration to Sprinkler System (> 2K SF). Fee = \$492 + (.0007 HR/SF * {SF-2k SF} * \$/HR) | per fee factor |
| Hood and Duct Systems, (each) | \$656.00 |
| FM 200 (under floor systems, etc), (each) | \$656.00 |
| Other (deluge, foam, preaction, etc), (each) | \$656.00 |
| Fire Alarm Systems | |
| Addition, Alteration, Repair < 5 devices (for new panel, see schedule below) | \$328.00 |
| Addition, Alteration, Repair 5 to < 10 devices, (10 or more devices and/or new panel see schedule below) | \$656.00 |
| New Fire Alarm (< 5K SF) | \$656.00 |
| New Fire Alarm (> 5K SF). Fee = \$656 + (.0006 HR/SF * {SF-5k SF} * \$/HR) | per fee factor |
| Hazardous Materials - Building Construction | |
| Small TI (registration form, nitrous oxide and oxygen system) | \$328.00 |
| Medium TI (emergency generator, lift stations, aboveground tanks, treatment, large tank installations) | \$820.00 |
| Large TI ("H" occupancy, plating) | \$1,476.00 |
| Toxic Gas Tools (furnaces, implanter, reactors) | \$1,312.00 |
| Closure – process/tools | \$492.00 |

| Activity | Permit Fee |
|---|----------------------|
| CONSTRUCTION REVIEW/PERMIT/INSPECTION (continue) | |
| Closure - facility | |
| Small TI | no fee |
| Medium TI | \$492.00 |
| Large TI | \$820.00 |
| Underground Tank Installations | |
| 2 tanks or less | \$1,312.00 |
| Each additional tank (beyond 2) | \$328.00 |
| Underground Tank Removals | |
| 2 tank systems or less | \$492.00 |
| Each additional tank system (beyond 2) | \$164.00 |
| CERS & APSA (see notes 1), 2) and 3) at end of table) | |
| CERS (California Environmental Reporting System) | \$328.00 |
| APSA (Aboveground Petroleum Storage Act) | \$328.00 |
| INVESTIGATION/ENFORCEMENT | |
| Response/Investigation Fee | HR * \$/HR |
| Fire Code Article 80 Release Cleanup | HR * \$/HR |
| Referral Inspection (Life/Safety). Minimum charge 2 HR | \$328.00 |
| Referral Inspection (Haz Mat). Minimum charge 2 HR | \$328.00 |
| Enforcement Cost Recovery | HR * \$/HR |
| MISCELLANEOUS | |
| After-hours inspections or plan check (Life Safety & Hazardous Materials). Fee = HR * OT\$/HR, (minimum 3 HR) | 3 HR minimum |
| Alternate Materials and Methods review | \$656.00 |
| Fire Watch. Fee = HR * hourly rate (Std. Or OT rate) | 3 HR minimum |
| New Occupancy (new business) | \$164.00 |
| Smoke Detectors verification (new owner) | \$164.00 |
| Detection System maintenance certification | \$164.00 |
| Pre-inspection (residential care facilities) | Health & Safety Code |
| Title 19 5-year automatic fire sprinkler certification | \$492.00 |
| Response to DUI | HR * \$/HR |
| Confined Space permits | HR * \$/HR |
| Emergency Response – Haz Mat calls | HR * \$/HR |
| Non-Milpitas Response | HR * \$/HR |
| | |
| | |
| | |

| Activity | Permit Fee |
|--|--|
| MISCELLANEOUS (continues) | |
| Data input (HMBP/HMIS). Minimum of 2 hours | HR * \$/HR Minimum of \$286.00 |
| Late fee – over 60 days | Collection Cost |
| Failure to obtain a permit | Double standard fee |
| Fire code permits not otherwise listed (2 HR minimum) | \$328.00 |
| Temporary C of O. Fee = (.5 HR * \$/HR) | \$82.00 |
| Weed Abatement. Fee = (1 HR * \$/HR) | \$164.00 |
| Unwanted Alarm | First two in 12 month time-frame, no charge 3rd - \$300.00 4th - \$600.00 5th - \$900.00 All others \$ 900.00 |
| Training | Classroom: Trailer \$ 60.00/HR Admin. \$ 70.00/HR Instructor: HR * \$/HR |
| Standard Hourly Rate = (\$/HR) | \$164.00 |
| Overtime Hourly Rate (OT\$/HR) = (Standard Hourly Rate * 1.5) | \$246.00 |
| Other activities not listed. Fee = HR * (Standard or OT Hourly Rate) | hours * hourly rate |
| Electronic Archive, (each permit) | \$25.00 |
| Fire Department Automation Fee, (each permit) | \$6.77 |
| Emergency Response Mapping - new projects. Fee = 1 * \$/HR | \$164.00 |

Notes

- 1) An APSA permit shall be included for projects involving petroleum hydrocarbons if the total on-site quantity of petroleum, in containers of 55 gallons, or greater, equals or exceeds 1,320 gallons.
- 2) A CERS fee shall be assessed if the total on-site quantity of all hazardous materials exceed the CERS reporting threshold specified in the Health and Safety Code, Chapter 6.95, Section 25503.5
- 3) A CERS fee shall be assessed for projects associated with the installation/modification of APSA, and all UST (underground storage tank) systems.

Abbreviations

APSA = Aboveground Petroleum Storage Act
 CERS = California Environmental Reporting System
 Haz. = Hazardous (Haz. Mat. - Hazardous Materials)
 HR = Hour(s)
 HMBP/HMIS = Hazardous Materials Business Plan/Haz. Mat. Inventory Statement
 Insp. = Inspection
 K = 1,000
 OT = Overtime
 OT\$/HR = Overtime hourly rate
 SF = Square footage
 Std. = Standard
 \$/HR = Standard hourly rate