

**ORDINANCE NO. 97-1**

**(An Ordinance of the Moraga-Orinda Fire Protection District  
Authorizing a Special Tax For  
Fire Protection and Prevention and Emergency Medical Services)**

The Contra Costa County Board of Supervisors, acting as the Conducting Authority for the Moraga-Orinda Fire Protection District Consolidation on behalf of the District to be established upon completion of Consolidation proceedings, does ORDAIN as follows:

**ARTICLE 1. PURPOSE AND INTENT.** It is the purpose and intent of this Ordinance to authorize the levy of a tax on parcels of real property on the secured property tax roll of Contra Costa County that are within the Orinda Service Zone of the Moraga-Orinda Fire Protection District, comprising the area of the predecessor Orinda Fire Protection District, in order to augment funding to assist in providing adequate fire protection, prevention and suppression and emergency medical services, equipment and related facilities, including water distribution facilities for fire suppression purposes.

This tax is a special tax within the meaning of Section 4 of Article XIII A of the California Constitution, and this Ordinance is enacted pursuant to Government Code Section 53978, Health and Safety Code Section 13911, and Government Code Section 50077. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is based, to the extent practical, upon the improvements to each parcel and, specifically, the risk of fire attendant to such improvements. Insofar as not inconsistent with this Ordinance, Government Code Section 53978, Health and Safety Code Section 13911 or Government Code Section 50077 and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Articles XIII and XIII A of the California Constitution as relate to ad valorem property taxes are intended to apply to the collection and administration of the tax (Article IV of this Ordinance), as authorized by Government Code Section 53978(d) and Government Code Section 50077(b).

The revenues raised by this tax are to be used solely for the purposes of obtaining, furnishing, operating, and maintaining fire protection, prevention and suppression and emergency medical equipment, apparatus or facilities, including water distribution facilities for fire suppression purposes, for paying the

salaries and benefits of firefighting and emergency medical personnel, and for such other fire protection, prevention and suppression and emergency medical expenses within the Orinda Service Zone as are deemed necessary by the Moraga-Orinda Fire Protection District.

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; provided, however, that such parcels shall comply with Government Code Section 53087.4, as enacted by Section 1 of Chapter 1125 of the Statutes of 1996. For purposes of this Ordinance, parcel does not include any land or improvement outside the boundaries of the Orinda Service Zone nor any land or improvements owned by any governmental entity.
2. "Improved parcel" means any parcel upon which any combustible improvement exists.
3. "Unimproved parcel" means any parcel except an improved parcel.
4. "Combustible improvement" means any building or other improvement, including all attached parts of such building or other improvements, if any contents or part of the building or other improvement is capable of burning.
5. "Improvement" means those items included within the Revenue and Taxation Code Section 105 definition of improvements, except for (1) fences, poles and walls that are not a part of or connected to a structure and (2) trees and vines.
6. "Fiscal year" means the period of July 1 through the following June 30.
7. "Improved parcel fire risk factor" means the figure calculated for each combustible improvement on an improved parcel, according to the following formula:

$$\text{Improved parcel fire risk factor} = 18 \times F \times \sqrt{A} \times .5S$$

Where:

F = the coefficient for the type of construction of the improvement, as specified in Section 310 of the Insurance Services Office Fire Suppression Rating Schedule, dated 1980. The type of construction of the improvement, which will determine the coefficient to be used, is to be determined in accordance with the definitions set forth in the aforesaid

Schedule. (Example: for frame construction (Class 1), F=1.5.) A copy of the Schedule shall be available for public inspection at the administrative headquarters of the District.

A = the approximate total square footage of area of the improvement, including all floors (basements included) and all attached parts of the improvement.

S = 2/ft. for a combustible improvement that does not contain an approved sprinkler system.

S = 1/ft. for a combustible improvement that does contain an approved sprinkler system.

8. "Improved parcel combined fire risk factor" means the total of the improved parcel fire risk factors for all combustible improvements on a parcel.

9. "Unimproved parcel fire risk factor" means the figure calculated for an unimproved parcel according to the following formula:

$$\text{Unimproved parcel fire risk factor} = 400 + (\text{EA} \times 5/\text{acre})$$

Where:

EA = the amount of acreage of the parcel that is in excess of 1 acre.

10. "Rate" or "tax rate" means the amount, expressed in cents, which is to be multiplied by either the unimproved parcel fire risk factor or the improved parcel combined fire risk factor to compute the amount of tax on a parcel.

11. "District" means Moraga-Orinda Fire Protection District.

12. "Component" means any part of the formula for the improved parcel fire risk factor or the unimproved parcel fire risk factor.

13. "Approved sprinkler system" means a sprinkler system conforming with the requirements of the District's Fire Code and any applicable building codes.

14. "Ad valorem property taxes" or "ad valorem real property taxes" means taxes on secured roll real property subject to being sold for delinquency of such taxes.

15. "Taxpayer" means the assessee of the property as shown on the secured tax roll and, if different than the assessee, the person or legal entity actually paying the taxes.

16. "Orinda Service Zone" means all the territory within the boundaries of the Orinda Fire Protection District, as existing on June 30, 1997, and any territory adjacent thereto which may be added to the Moraga-Orinda Fire Protection District after July 1, 1997.

ARTICLE III. SETTING OF TAX RATE; COMPUTATION AND LEVY OF TAXES.

1. Setting of the Tax Rate.

At a regularly scheduled meeting held prior to the end of July, the Board of Directors of the Fire Protection District shall set the rate for the Orinda Service Zone, which shall be applied to determine the taxes for the then current fiscal year. The rate shall be in cents and shall be determined to the closest one-tenth of a cent (e.g., a rate of 4.5 cents) that the Board of Directors of the District deems appropriate to achieve the purposes of this Ordinance; provided, however, that said rate shall not exceed 6.0 cents unless an increase in such maximum rate is approved by two-thirds of those voting on such an increase in a service zone wide election.

2. Computation of Taxes.

a. Improved parcels: the tax on each improved parcel shall be the amount, in dollars and cents, determined by multiplying the rate times the improved parcel combined fire risk factor for the parcel.

b. Unimproved parcels: the tax on each unimproved parcel shall be the amount, in dollars and cents, determined by multiplying the rate times the unimproved parcel fire risk factor for the parcel.

3. Levy of Taxes.

Prior to the end of each July, the District's Board of Directors shall levy taxes upon the parcels in the Orinda Service Zone for the then current fiscal year by setting the rate and computing the taxes in accordance with Article III, 1 and 2, above. Taxes shall be levied on each parcel and shall be due and collectible as set forth in Article IV, below. A complete listing of the amount of taxes 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 taxes are levied.

## ARTICLE IV. COLLECTION AND ADMINISTRATION.

### 1. Taxes as Liens Against the Property.

The amount of taxes for each parcel each 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.

### 2. Collection.

The taxes on each parcel shall be billed on the secured roll tax bills for ad valorem property taxes and shall be due the District. Insofar as feasible and allowed by law and insofar as not inconsistent with this Ordinance, the taxes are to be collected by the Contra Costa County Tax Collector and Auditor 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 the Ordinance, the times and procedures regarding exemptions, due dates, installment payments, corrections, cancellation, refunds, penalties, liens, and collections for secured roll ad valorem property taxes shall be applicable to the collection of this tax. Notwithstanding anything to the contrary in the foregoing, as to this tax: (1) the secured roll tax bills shall be the only notices required for this tax, (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 tax is a function of square footage or acreage.

### 3. 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 Governing Board of the District shall cause a notice of right to appeal to be published once a week for two weeks in a newspaper of general circulation throughout the Orinda Service Zone. Such notice shall be headed "Notice of Appeals Period for Fire Protection District Special Tax for Fire Protection and Prevention and Emergency Medical Services within the Orinda Service Zone" and shall contain the wording of all of Article V hereinbelow.

### 4. Costs of Administration by County.

The reasonable costs incurred by the County officers collecting and administering this tax shall be deducted from the collected taxes before remittal of the balance to the District.

## ARTICLE V. APPEALS

### 1. Applications for Reduction of Taxes; Time Limit for Filing; Notice of Hearing; Payment of Taxes Pending Decision; Refunds.

Appeals of the amount of the special tax for fire protection and prevention and emergency medical services for a parcel, or of any component of the tax, must be made by written application of the taxpayer to the District and must be received at the District's administrative headquarters not later than the 31st of December following receipt of the tax bill for the first installment of secured roll taxes. Any such appeal must set forth all facts upon which the taxpayer contends that the taxes should be reduced. Any such appeal also must give the mailing address of the taxpayer, must specify by precise address or assessor's parcel number, the location of the parcel for which the taxes 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 Governing Board of the District as soon as reasonably possible, and notice of such hearing shall be mailed to the appealing taxpayer at least two weeks in advance of the hearing. Filing of an appeal is not grounds for failing to timely pay the entire amount of taxes specified as due on the tax bill. If taxes are reduced or increased as a result of the decision of the Board, the taxes 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. The Board may designate a hearing officer to hear appeals. If the Board designates a hearing officer, all references herein shall be deemed references to the hearing officer.

### 2. Hearing.

The taxpayer or his designated representative may, but need not, be present at the hearing. If present, the taxpayer or his designated representative may present any relevant evidence and may be examined under oath by the District's representative and the Board. The District's representative may also present any relevant evidence and be examined under oath by the taxpayer or his designated representative, and the Board. The burden of proof of any factual questions shall be on the taxpayer. Within 40 days after the hearing, the Board, by majority vote, or the hearing officer, as the case may be, shall determine what (if any) component of the tax bill shall be reduced or increased, and by how much. If taxes are to be reduced or increased as a result of the decision on the appeal, the taxes shall be refunded or collected, insofar as feasible, in the

same manner as secured roll ad valorem property taxes are refunded or collected after Assesmen Appeals Board hearings.

**ARTICLE VI. SEVERABILITY CLAUSE.** If any article, section, subsection, sentence, phrase or clause of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The voters of the Moraga-Orinda Fire Protection District hereby declare that they would have adopted the remainder of this Ordinance, including each article, section, subsection, sentence, phrase or clause, irrespective of the invalidity of any other article, section, subsection, sentence, phrase or clause.

**ARTICLE VII. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon the confirmation of this Ordinance by two-thirds of those voting in the Orinda Service Zone *and* the completion of proceedings for the Moraga-Orinda Fire Protection District Consolidation, which Consolidation requires the approval of a majority of those voting in the Orinda Fire Protection District, the approval of a majority of those voting in the Moraga Fire Protection District, and the confirmation of this Ordinance.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors, County of Contra Costa, State of California, on this 14<sup>th</sup> Day of January, 1997 by the following vote:


AYES: Supervisors Rogers, Uilkema, Gerber, Canciamilla and DeSaulnier

NOES: None

ABSENT: None

ATTEST: Phil Batchelor, County Administrator  
and Clerk of the Board of Supervisors

By:  Deputy

  
Mark DeSaulnier  
Board Chair

c:Orindazonespectaxord.doc-1/8/97