

## **ORDINANCE NO. 2020-002**

### **AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE LAKESIDE FIRE PROTECTION DISTRICT ENACTING A SPECIAL TAX TO FUND FIRE PROTECTION SERVICES AND CAPITAL IMPROVEMENTS SUBJECT TO THE APPROVAL OF THE VOTERS**

**WHEREAS**, the Lakeside Fire Protection District (District) provides essential fire and other services to the members of the District which are necessary for the preservation of life and property; and

**WHEREAS**, at the special meeting of its Board of Directors on June 16, 2020, the District received a report and financial impact analysis from expert financial consultant, Habib Isaac of IB Consulting, LLC (the "Financial Impact Analysis"), and adopted Resolution No. 20-022, approving the Financial Impact Analysis; determining, consistent with the Financial Impact Analysis, that revenues currently available to the District are inadequate to meet the costs of service under California Health and Safety Code (HSC) section 13862; and deciding to raise revenues; and

**WHEREAS**, HSC section 13910 provides: "Whenever the district board determines that the amount of revenue available to the district...is inadequate to meet the costs of providing services pursuant to Section 13862, the board may raise revenues pursuant to this chapter [of the Fire Protection District Law of 1987, HSC sections 13800 - 13970] or any other provision of law; and

**WHEREAS**, HSC section 13911 provides: "A district may levy a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code"; and

**WHEREAS**, Government Code section 53978 provides that fire protection districts "may, by ordinance, determine and propose for adoption a special tax for fire protection and prevention provided by the local agency..., other than ad valorem property taxes, pursuant to this section" and that "[s]uch proposition shall be submitted to the voters ... of the district, and shall take effect upon approval of two-thirds of the voters voting upon such proposition"; and

**WHEREAS**, since it was established in 1963, the Lakeside Fire Protection District has only decided to raise revenues by a special tax or assessment once before, which was through Resolution No. 80-002 and Ordinance No. 80-005, imposing standby charges of \$10.00 per benefit unit per year and which the voters approved on June 3, 1980; and

**WHEREAS**, this measure, if approved by two-thirds of the voters voting in the election, would repeal Ordinance No. 80-005 and the current standby charges of \$10.00 per benefit unit per year and replace them with a special tax of \$25.00 per benefit unit per year, for a net increase of \$15.00 per benefit unit per year with an annual adjustment for inflation of two percent (2%); and



**WHEREAS**, this measure would fund costs to continue to provide essential Fire Protection Services and necessary Capital Improvements (both as defined in the Ordinance); and

**WHEREAS**, this measure will ensure that the District is financially stable and able to continue offering essential fire protection services; and

**WHEREAS**, this measure contains a robust accountability system, including annual independent audits to ensure that all funds are spent properly; and

**WHEREAS**, these funds can only be used for local Fire Protection Services and Capital Improvement purposes and cannot be taken away from this community or used for any other purposes; and

**WHEREAS**, the special tax authorized by this Ordinance is authorized by HSC sections 13911 and 13913 and Government Code sections 50075 and 53978. It will be submitted to District voters at the November 3, 2020 election and will be effective and approved if two-thirds of voters voting on the measure vote in favor of it.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE LAKESIDE FIRE PROTECTION DISTRICT, A PUBLIC AGENCY IN THE COUNTY OF SAN DIEGO, CALIFORNIA AS FOLLOWS:**

#### **SECTION 1. AUTHORITY**

The District enacts this Ordinance in accordance with the authority granted to Fire Protection Districts pursuant to Sections 13911 and 13913 of the California Health and Safety Code and Sections 50075 and 53978 of the California Government Code.

#### **SECTION 2. RECITALS**

All Recitals contained in this Ordinance are true and correct and are incorporated herein by reference.

#### **SECTION 3. DEFINITIONS**

For the purposes of this Ordinance, the following terms shall have the meanings provided below:

- A. "Administrator" means an official of the District, or designee thereof, responsible for carrying out the provisions of this Ordinance.
- B. "Assessor's Parcel Number" means the Parcel and Parcel Number as assigned by the San Diego County Assessor on the equalized tax roll.
- C. "Board" means the Board of Directors of the District.



D. "Business" means any enterprise, project, undertaking or activity involving the provision of goods or services, or having the potential to do so, including vacant structures and non-profit uses, but excluding uses of Unimproved Parcels, Farm Parcels and Residential Use Parcels.

E. "Business Use Parcel" means a Taxable Parcel that has been developed for use other than residential uses based on County use codes.

F. "Capital Improvements" mean maintaining, upgrading, improving, replacing, repairing, funding and financing fire stations and facilities necessary to the provision of any Fire Protection Services; obtaining, furnishing, operating, maintaining, replacing, repairing, funding and financing fire suppression equipment, materials or apparatus; and costs, including legal expenses, incidental to or relating to any of the foregoing, this Ordinance or the costs of administration.

G. "Commercial Parcel" means a Taxable Parcel on which any type of business activity that does not involve the manufacturing, processing or production of goods, or a specifically identified industrial use is capable of being conducted, including, hospitals, hotels, motels, golf course parcels with improvements, trailer parks with temporary structures, mortuary, mausoleum, churches, meeting halls, gyms, library, school, improved taxable government-owned property, parking facilities, automotive garage, tanks, auto sales and services, office buildings, medical, dental, animal hospital, shopping center, grocery and drug stores, car wash, restaurant, bowling alley, theater, radio and T.V. stations, banks, recreational camps, and any other miscellaneous business not constituting an Industrial Business, regardless of whether the business is currently in operation.

H. "County" means the County of San Diego.

I. "County Assessor" or "Assessor" means the County Assessor of County of San Diego.

J. "County Assessor's parcel" means a lot or Parcel with an assigned Assessor's Parcel Number used by the County Assessor in preparing the tax roll.

K. "District" means the Lakeside Fire Protection District.

L. "Farm Parcel" means any Parcel consisting of vacant land with irrigation available, irrigated crops, grows houses, miscellaneous trees, vines, avocados, citrus, livestock, poultry and miscellaneous irrigated farms based on County use codes.

M. "Fiscal Year" means the period starting July 1 and ending the following June 30.

N. "Fire Protection Services" means fire protection services, rescue services, emergency medical services, hazardous material emergency response services, ambulance services, any other services relating to the protection of lives and property; paying for salaries



and benefits to firefighting personnel and for such other necessary fire protection and prevention expenses; and costs incidental to any of the foregoing, including legal expenses, costs relating to this Ordinance and costs of administration.

O. "Industrial Parcel" means a Taxable Parcel on which any of the following Businesses is capable of being conducted: industrial parks; extractive and mining; public utilities; activities involving the development, production, collection, conversion, storage, conservation, or transmission of coal, electricity, gas, oil, steam, water or sources of energy not covered by the foregoing; manufacturing, fabricating or processing activities; research and development activities; airports; transportation facilities; storage, shipping, receiving, warehouse and distribution facilities; and facilities directly related, incidental or subordinate to any of the foregoing.

P. "Multi-family Parcel" means any Residential Use Parcel which is improved by a structure or structures that in total contain more than two dwelling units in any vertical or horizontal arrangement on a single lot or building site, including apartments, mobile homes, manufactured homes in mobile home parks, trailer parks with permanent or semi-permanent structures, dormitories, rest homes and any other Dwelling Units not constituting Dwelling Units located on a Single-family Parcel.

Q. "Parcel" means any County Assessor's parcel in the District based on the equalized tax roll of the County as of January 1 of each Fiscal Year.

R. "Residential Use Parcel" means a Taxable Parcel with one or more Dwelling Units developed for residential uses based on County use codes.

S. "Single-family Parcel" means any Residential Use Parcel which is improved by a structure or structures containing a total of one or two dwelling units, including single family residences, condominiums, co-ops, duplexes, doubles, townhouses, manufactured homes outside mobile home parks, and any accessory structure or accessory dwelling unit, used or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof or any Residential Use Parcel containing an improvement that is located in a single family residential zone.

T. "Special tax" means the special tax authorized and imposed by this Ordinance.

U. "Taxable Parcel" means any Parcel that is not a Tax-Exempt Parcel.

V. "Tax-Exempt Parcel" means any parcel that is exempt from the levy of general ad valorem property taxes under California law.

W. "Unimproved Parcel" means a Taxable Parcel that does not contain improved square footage shown on the equalized tax roll of the County as of January 1 of each Fiscal Year, including, but not limited to, vacant land with any use, agricultural preserve, un-irrigated rural land, golf course Parcels without structures (i.e., greens and fairways) and cemeteries based on County use codes, but excluding Farm Parcels.



X. "Dwelling Unit" means for a Taxable Parcel, a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

#### **SECTION 4. TAX REPEALED; TAX IMPOSED**

A. Ordinance No. 80-005, which imposed the current standby charges of \$10.00 per benefit unit per year, is hereby repealed and replaced with the annual special tax at the rates set forth in Section 5 effective upon the effective date of this Ordinance as set forth in Section 17.

B. An annual special tax at the rates set forth in Section 5 is hereby imposed on every Taxable Parcel within the District.

C. The special tax constitutes a debt owed by the owner of each Parcel to the District.

D. The special tax shall be levied and collected on each Parcel within the District for which the owner receives a separate ad valorem property tax bill.

E. Tax-Exempt Parcels are exempt from any liability for the special tax.

#### **SECTION 5. TAX RATES**

A. The rate of the special tax for each type of Taxable Parcel shall be \$25 per benefit unit per year as set forth below.

Unimproved Parcel	2 benefit units per acre
Farm Parcel	4 benefit units per Parcel
Single-family Parcel	4 benefit units per Dwelling Unit
Multi-family Parcel	3 benefit units per Dwelling Unit (including mobile homes)
Commercial Parcel	10 benefit units per Business
Industrial Parcel	20 benefit units per Business

B. After the first year that the special tax is levied, to keep the tax on each Taxable Parcel in constant first year dollars for each year, the tax rates listed in the above table shall be automatically adjusted annually by two percent (2%) for the first three years. Thereafter, the then-current tax rates shall be automatically adjusted annually by two percent (2%) or the change in cost of living pursuant to California Constitution Article XIIIB, whichever is less. In lieu of the automatic annual adjustment of the tax rates, the District Board of Directors may in any year, by resolution, adjust the then-current rates by an amount less than two percent (2%) and provided it does not exceed the change in cost of living.



C. If a Taxable Parcel has mixed uses, the tax rate shall be the rate for the primary use code if the primary use code is for Unimproved Parcels and Farm Parcels. For any other Taxable Parcels with mixed uses, the tax rate shall be the rate for each use of the Parcel.

D. The assessment roll data of the County Tax Assessor as of January 1 of each year and District records shall be used to determine the actual use of each Parcel of real property for purposes of determining the amount of the special tax for each Parcel.

#### **SECTION 6. COLLECTION OF TAX**

The special tax may be collected in the same manner as ordinary ad valorem taxes are collected and, if collected in that manner, shall have the same lien priority and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes collected by the County of San Diego. The District Board of Directors may provide for other alternative methods of collection of the special tax by resolution.

#### **SECTION 7. COLLECTION OF UNPAID TAX**

The amount of the special tax, any penalty, and any interest imposed under the provisions of this Ordinance shall be deemed a debt owed to the District. Any person owing money to the District under the provisions of this Ordinance shall be personally liable in an action brought in the name of the District, at its option, for the recovery for such amount.

#### **SECTION 8. USE OF TAX REVENUE**

A. Revenue from the special tax, including penalties and interest thereon, shall be used for Fire Prevention Services and Capital Improvements, with at least fifty percent (50%) of such revenues after payment of costs pursuant to Section 8B being earmarked for and dedicated to Capital Improvements each Fiscal Year.

B. At the District Board of Directors' discretion, revenue from the special tax, including penalties and interest thereon, may also be used to pay for the costs of holding an election to seek voter approval of this Ordinance, for the costs of administering the special tax, and for the costs of defending the special tax and this Ordinance, including attorneys' fees and related costs.

#### **SECTION 9. ACCOUNTABILITY**

In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the special tax:

A. A separate, special account, referred to as the Fire Protection Tax Fund, shall be created, into which the proceeds of the special tax, including penalties and interest earned on such proceeds, must be deposited.



B. The specific purposes of the special tax are for the funding Fire Protection Services (defined in Section 1) and Capital Improvements (defined in Section 1) and for related election, administration, and legal fees as set forth in Section 8. The proceeds of the special tax shall be applied only to those specific purposes.

C. The Administrator shall annually prepare and submit to the District Board of Directors a report regarding the special tax funds collected and expended, as well as any other information required by Government Code sections 50075.1 and 50075.3.

#### **SECTION 10. INTERPRETATION, APPLICATION, AND APPEAL OF SPECIAL TAX FORMULA AND PROCEDURES**

A. Any taxpayer who feels the amount of the special tax assigned to a Parcel is in error may file a notice with the Administrator appealing the levy of the special tax. The Administrator then will promptly review the appeal and, if necessary, meet with the applicant. If the Administrator verifies that the special tax levied on the applicant's Parcel should be modified or changed, the special tax levy will be corrected and, if applicable in any case, a credit or refund will be granted. The appeal must be filed not later than one year after having paid the special tax that is disputed. The District Board of Directors may provide for other alternative appeal processes or procedures by resolution or ordinance.

B. Interpretations may be made by the District, by resolution or ordinance of the Board, for purposes of clarifying any vagueness or ambiguity as it relates to the special tax rate, the classification of properties, determination of uses, or any definition applicable to the special tax, without approval of the voters.

C. Without Board approval, the Administrator may make minor, non-substantive administrative and technical interpretations of the provisions of this Ordinance for purposes of administrative efficiency or convenience or to comply with new applicable federal, state, or local law, so long as any interpretation does not materially affect the rate and manner of collection of the special tax.

#### **SECTION 11. AMENDMENTS**

This Ordinance may only be amended by a vote of the people if the amendment would result in the special tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the voters, or if the amendment would substantially alter the purposes of the special tax. The District Board of Directors may enact other amendments, including, but not limited to, amendments necessary to implement or administer the special tax.

#### **SECTION 12. EXPIRATION OF TAX**

The authority to levy the special tax shall remain in effect unless a later ordinance is adopted and approved by the voters that either repeals the special tax or establishes a date that the authority to levy the special tax shall terminate.



**SECTION 13. ADJUSTMENT OF APPROPRIATIONS LIMIT**

Pursuant to California Constitution Article XIII B, the appropriation limit for the District is hereby increased by the aggregate sum authorized to be levied by this special tax for fiscal year 2021-22 and each year thereafter.

**SECTION 14. ORDINANCE PUBLICATION**

A. A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the District's Board Clerk at least five (5) days prior to the Board of Directors meeting at which it is adopted.

B. A summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of the Board of Directors voting for or against same, in a newspaper of general circulation in the County.

**SECTION 15. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

This Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The special tax authorized by this Ordinance is a special tax that can only be used to fund the projects, facilities, and services described in the Ordinance, but does not approve any of the described projects or services. As such, under CEQA Guidelines section 15378(b)(4), the special tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project or service that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the District would undertake the required CEQA review for that particular project or service at the earliest feasible time prior to approval consistent with CEQA Guidelines Sections 15004 and 15352. Therefore, pursuant to CEQA Guidelines Section 15060, review of the Ordinance under CEQA is not required. Prior to commencement of any project or service funded by the special tax, any necessary environmental review required by CEQA shall be completed.

**SECTION 16. SEVERABILITY**

If any provision of this Ordinance is held by any court or by any federal or state agency of competent jurisdiction, to be invalid as conflicting with any federal or state law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had previously been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding. If any section,



subsection, phrase, clause, sentence, or word in this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of this Ordinance but shall be confined to the article, section, subsection, subdivision, clause, sentence or word so held invalid or unconstitutional. Notwithstanding the foregoing, if for any reason the imposition of the special tax is held invalid or unconstitutional, such a finding of invalidity or unconstitutionality shall also nullify the repeal of Ordinance No. 80-005 and Ordinance No. 80-005 shall be deemed to remain in full force and effect.

**SECTION 17. DATE OF ADOPTION AND EFFECTIVE DATE**

This Ordinance, including the repeal of Ordinance No. 80-005, shall be considered adopted on the date of the declaration of the vote at the November 3, 2020 election and shall become effective 10 days thereafter.

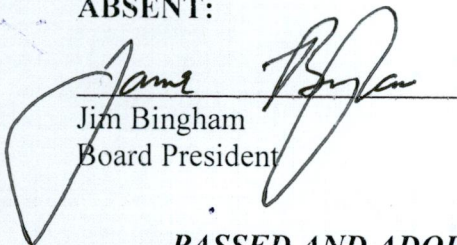
*The foregoing Ordinance was read and introduced at a regular meeting of the Board of Directors of the Lakeside Fire Protection District, County of San Diego, State of California, on the 23<sup>rd</sup> day of June, 2020 and ordered passed to print by the following vote, to wit:*

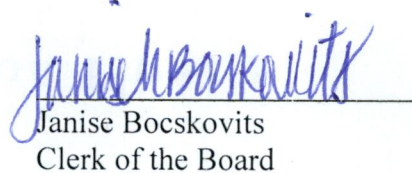
**AYES:** Baker, Bingham, Liebig, Robeson, Robles

**NOES:**

**ABSTAIN:**

**ABSENT:**

  
Jim Bingham  
Board President

  
Janise Bocskovits  
Clerk of the Board

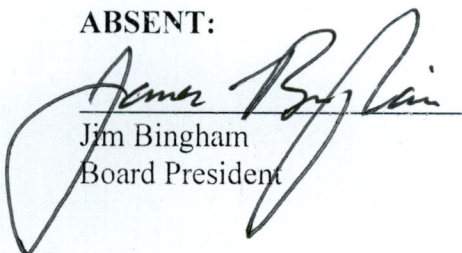
***PASSED AND ADOPTED*** subject to voter approval at the November 3, 2020 election at a regular meeting of the Board of Directors of the Lakeside Fire Protection District, County of San Diego, State of California, on the 14th day of July, 2020 by the following vote, to wit:

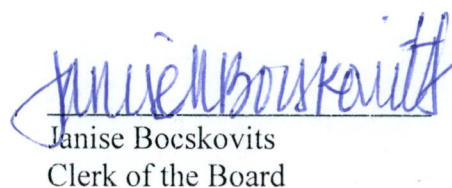
**AYES:** baker, liebig, bingham, robles, robeson

**NOES:**

**ABSTAIN:**

**ABSENT:**

  
Jim Bingham  
Board President

  
Janise Bocskovits  
Clerk of the Board