



Legislation Text

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SUBJECT: Public Hearing - Merced Fire Department User Fees

REPORT IN BRIEF

Public Hearing to hear comments and adopt a resolution updating the Merced Fire Department's user fees.

RECOMMENDATION

City Council - Adopt **Resolution 2016-48**, A Resolution of the City Council of the City of Merced, California, Adopting Fees for Required Permitted Fire and Life Safety Inspections.

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Approve, subject to other than recommended by staff; or,
3. Refer to staff for reconsideration of specific items; or,
4. Continue item to a Future Council meeting; or,
5. Deny the request.

AUTHORITY

Charter of the City of Merced, Section 412. Adoption of ordinances and resolutions. California Government Code Sections 66014, 66016, and California Health and Safety Code Section 19132 - 19132.3.

CITY COUNCIL PRIORITIES

Public safety, as provided for in the FY 16/17 Adopted Budget.

DISCUSSION

Background

The loss of human lives and businesses as a result of a fire is all the more tragic because much of it is preventable. Fire prevention is the most effective way of protecting citizens in the City of Merced from fires. Effective public education and fire prevention activities return immense dividends in the form of life and property saved. If a small amount of "prevention" can eliminate the need for a large scale and expensive fire response, and its related risk of loss of property and life, then "prevention" is an investment well made.

One of the best ways to prevent a fire is through routine building inspections, which are performed by

Fire Prevention Bureau (FPB) staff and firefighters. The purpose of an inspection is to identify and correct code violations; educate business and property owners about fire and life safety; reduce fire loss (less fires equates to lower insurance rates); and to provide less demand on public safety services by reducing fire and life safety risks. During the inspection, business owners and managers are advised of any code violations and how to repair the violation before a re-inspection. The MFD does not have sufficient personnel resources to fund a comprehensive fire prevention program and the demand for resources and staffing, caused the MFD to previously change the frequency of its business inspections.

The City of Merced is responsible for providing a wide array of services to our citizens. Services that support the general public, such as most public safety services, are supported by tax and other non-fee revenues, while services that are more elective in nature and have specific individual beneficiaries and are typically supported by user fee charges.

On October 17, 2016, the City Council received and discussed a comprehensive user fee and cost study prepared by the City’s consultant and city staff. At that time, Council adopted a fee schedule which reflected fees based on the calculation of actual costs. The new fees went into effect on January 1, 2017.

The purpose of establishing inspection fees for fire safety inspections is to partially recover the cost of services and the costs do not and will not fully fund the inspection program. The development of the fee for the inspection was based on a number of factors that considered the occupancy type, occupancy use and time involved for the inspection. All businesses with the exception of B (Business Group) occupancies will be charged an inspection fee. This fee is a new charge, previously businesses were never charged a fee. Attachment “A” contains the proposed Fee Schedule. Some businesses may also require a fire code use permit(s), which also helps offset the cost of enforcing of more detailed requirements of the fire code. Most businesses were previously charged a fee for their permit. Business re-inspections conducted by firefighters or FPB staff and the rescheduling of those appointments are time consuming and takes time away from firefighters responding to emergencies and mandated training. If a business requires a third inspection due to violations, they will be charged \$130 for each re-inspection. Previously, businesses were charged \$50 for the third inspection and \$75 for each inspection thereafter.

To provide an idea of how the current fee structure compares to the proposed fees, we provide the following examples. Note that the assumption is that each business requires a third inspection. If the business is compliant, then the fees will be reduced.

	Current Fees	Proposed Fees
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Business Name	Business Occupancy Class	Current Permit Fee	Current Non-Compliant Fee (Third Inspection)	Total Fee	Proposed Permit Fee	Inspection Fee	Non-Compliant Fee	Total Fees
St. Patrick's Church (Non Profit)	A	75	50	125	75	0	130	205
California State Automobile Assoc. (Profit)	A	75	50	125	130	0	130	260
Wells Fargo Bank	B	N/A	50	50	N/A	0	130	130
Chenoweth Elementary School	E	0	50	50		195	130	325
Merced High School	E	0	50	50	-	390	130	520
Scholle Corporation	F	235	50	285	380	391	130	901
Sierra Propane	H	75	50	125	130	391	130	651
Mercy Medical Center	I2	260	50	310	430	1562	130	2122
Parker's Hardware or H & W Drive-In	M	N/A	50	50	N/A	195	130	325
Village Landing Apartments	R-2	N/A	50	50	N/A	815	130	945
Simply Space	S	N/A	50	50	N/A	195	130	325

The MFD:

- ☐ Recognizes the importance of fire and life safety code enforcement for the public and firefighters
- ☐ Has explored various avenues for obtaining compliance from business owners
- ☐ Hired a consultant to determine the actual operating costs for providing these important services
- ☐ Recognizes that any increases in its fee structure may negatively impact the economic viability of existing businesses and/or reduce the city's ability to attract new businesses
- ☐ Recommends updating its fees to provide sufficient funding for the operation of the FPB
- ☐ Is cognizant of the importance of business friendliness and adjusted its fees accordingly

It is the expectation that the restructuring of the fees for fire prevention will play a significant role in shaping future fire prevention strategies. The new/updated fees will be utilized in order to offset costs incurred by the department and are a common revenue source for fire departments. Any additional revenues generated will lessen the MFD's burden on the General Fund and could be used to re-establish the fire prevention bureau in an effort to reduce the number of fires within our community.

The goal of Fire Prevention is to "Proactively improve life safety, minimize losses, and reduce the risks from fire through education, application of codes, and investigation." Quite simply, the Fire

Prevention Bureau: Prevents fires; investigates the cause, origin, and circumstances of fires; eliminates fire and life safety hazards in buildings; ensures the maintenance of fire protection equipment and systems; regulates the storage, use and handling of hazardous materials and substances; and enforces basic building regulations of the California Fire Code in the City of Merced.

History

Previous City Council's (1998) direction was to ensure that existing fees were calibrated to the cost of providing services, therefore, in 2013, the Fire Department contracted with a third party consultant to conduct a Comprehensive User Fee Study (study) to evaluate and update those fees.

The timeline on the following page reflects major milestones in the updating of the Fire Department's fee schedule. It is important to note that it is evident that although prior City Council's direction was to increase fees to full cost recovery, the action did not occur. However, due to fiscal challenges in delivering services to the public, the Fire Department is concerned about the increased risk of life safety and property to the community and took this opportunity to review its current fee schedule against actual costs to explore different avenues to have the ability to continue to meet the community's expectation of acceptable levels of response to emergencies and providing safety to its citizens.



The last comprehensive fee update occurred in January, 2008. Since that time, changes to the California Fire Code, local codes, direct and indirect costs have occurred, resulting in a disparity between services provided and actual costs to perform those services. It is believed that the willingness of business owners to correct violations increases dramatically if they are charged a re-inspection fee. In order to continue to deliver and improve service to our community, maintaining an up to date fee schedule will offset costs to the general fund while recovering costs of some of the many services provided and increase compliance, thereby increasing safety to the public. The final fee study has been completed and today's public hearing is to allow public input and comment on the proposed changes to fees and charges prior to recommending a resolution to update the current fee schedule.

The Consultant has identified a full cost recovery value for services provided and the data used to support the rates are transparent, fully documented and meets legal requirements. The following is a brief overview and summary of the update to the current fee schedule. It should be noted that there are cases where full cost recovery represents a significant increase beyond our current fees and the department is recommending an incremental increase until the target amount is achieved, this would occur when fees conflict with the broader City goals and values (Economic Development is at the top of the list for the City and fees may need to be adjusted to not deter new and existing businesses).

Why are we proposing to increase fees?

Without the ability to collect full cost recovery fees for some services, the Fire Department's services will become compromised to levels that could be unsafe for the community, including businesses, residents, property owners, and public safety personnel.

What are our options if we fail to keep up with operating costs?

- ☐ Lower the service provided by reducing staffing or keeping status quo, which may place people, lives and homes in unnecessary danger
- ☐ Increase taxes to cover the actual costs of operation
- ☐ Bill those individuals that use our service for their fair share of the service

How will the increased revenues be used?

The Fire Department is projecting 100% of the revenue be applied towards fire prevention staffing (Fire Deputy Marshal and Fire Inspector) to alleviate the MFD's burden on the General Fund. Any residual funds, if any, should be directed towards defraying the cost of replacing aging fire engines, fire trucks, and life safety equipment, which are vital in savings lives and property.

The Fire Department Master Plan reflects that an emphasis on Fire Prevention over suppression needs to occur to have "adequate" fire protection for the City and that an increased emphasis is needed.

Put simply, the funding provided to the fire department for fire prevention activities directly influences the amount of emergency resources available, and the scope of prevention activities, which in turn influence life or death issues.

What is Fire Prevention?

Fire Prevention is knowing what you can do to prevent a fire in the first place and what actions to take in case one happens. Practicing fire prevention can help save the lives of you and your loved

ones. Basically, it's a proactive method of saving lives and reducing fires and typically overseen by a dedicated Fire Marshal (whose position was previously eliminated during budget cutbacks).

Fire Prevention encompasses:

☐ **Public Education**

It is vital that citizens be aware of the valid and cost-effective methods of reducing the incidence of fire and the severity of injury and damage when fire does occur through fire and life safety awareness programs.

Components of a successful public education program are:

- School fire prevention education programs
- Annual fire prevention month awareness campaign
- Smoke and carbon monoxide detector installation campaign
- Public safety announcements
- Social media blasts about fire safety
- Juvenile fire setter intervention program



☐ **Inspection**

Fire Prevention inspections include fire prevention bureau and fire company inspections of new businesses, annual business inspections, state-mandated and other special inspections.

☐ **Plan Checks and Code Enforcement**

New construction and alterations to existing buildings requires a concentrated effort to review

and approve all plans submitted. Installation of sprinkler systems and fire and heat detection systems demands extensive amounts of office and field inspection time to review and certify. Determination of subdivision water supply requires plan checking for hydrant locations, water flow testing and documentation. Due to the amount of time required and lack of fire department staffing, this element was transferred to Development Services.

□ **Pre-Fire Planning**

Engine and Truck Company review of building layouts provides current information as to the occupancy and anticipated firefighting problems. This program of pre-fire planning supports the department's annual business and target hazard inspection efforts.

□ **Fire Cause Determination and Investigations**

Under state and local mandates, the MFD policies require that each and every occurrence of fire is to be investigated to determine the exact cause. Through such efforts, documentation is developed to support the review of building construction standards and code compliance. Arson-related fires are documented and appropriate investigation efforts initiated. Only through an intensive investigation of each and every fire is the true cause determined, requiring many man hours of follow-up.



□ **Abatement**

The MFD has an extensive nuisance abatement program, which is designed to eliminate fire and health hazards associated with seasonal growth of weeds and other hazards such as accumulation of litter, brush, rubbish, garbage, scrap wood and similar materials. Due to the extensive follow-up time for compliance and lack of sufficient personnel, the follow-up was transferred to the Code Enforcement Division.



☐ **Permits**

The MFD issues fire permits as a way to manage properties and business for fire and life safety. Licensed care facilities, tent permits, pyrotechnic displays, are just a few of the permits we issue. Permits for underground storage tank removals and tenant improvements to sprinkler and alarm systems have been transferred to Development Services.

☐ **Public Assistance and Complaints**

Public assistance and complaint follow-ups run a wide array of matters. Example would be code violations in buildings, property storage of hazardous materials, and illegal auto body work.

It has been proven that fire prevention programs have reduced the rate and severity of fires occurring across the United States. The MFD operates an aggressive fire prevention program, consisting of new construction plans review, smoke alarm and carbon monoxide alarm installations in homes, fire investigation, and public safety education. As with other programs, fire prevention is accomplished mostly by operational staff (firefighters) as an additional duty. The fire code and fire prevention workload has increased to the point where it can no longer be carried out by the on duty crews. In addition the workload resulting from increased economic development is such that the Department must take steps to assure development moves forward.

Fees

Inspection Fee

Although benefits of inspection programs accrue to our entire community, the major benefactors are the owners, employees, customers and clients of the businesses, institutions or multi-family dwellings that are inspected. The owners of inspected properties therefore are being asked to pay for some or all of the expenses of conducting the inspections from which they benefit. Inspection fees have long been used by fire departments to offset prevention costs, and are well accepted. Some departments charge a flat fee for inspection of a certain occupancy type. Some inspection fees are based upon the type of inspection conducted (initial or repeat), the type of building (high-rise, taxpayer, etc.), and the square footage. Additional fees sometimes are charged if special hazards are present, such as hazardous materials storage areas. Workloads have led many fire departments to institute fees (or raise fees) for re-inspections, both to discourage contractors and businesses from taking fire inspectors' time for granted, and to encourage compliance. Multiple inspections and continuing violations (often from the

second or third re-inspection) often result in fees to compensate for the inspector's time, as well as to deter violations. In some cities fees for inspections are not levied except for re-inspections.

Re-Inspection Fee

The MFD currently charges fees related to its fire prevention activities. It is noted there is a positive correlation between individual's willingness to correct violations when an appropriate punitive re-inspection fee is implemented.

False Alarms

Reduced resource levels are created for the general public and the fire department, because valuable man power and resources are utilized unnecessarily and firefighters become unavailable for actual emergency calls. Charging a fee for these particular types of response not only assists in recouping fire department costs, but also helps to address concerns related to fire alarm system maintenance. For many fire departments, nuisance alarms represent a large number of responses. These include malicious false alarms and alarms that come from automatic fire alarm systems, often as a result of inadequate maintenance, design, or operation. Most new commercial buildings and an increasing number of residences have automated fire detection systems that can trigger unnecessary automatic responses by the fire department, particularly when the alarm systems are not properly installed or maintained. Repeat offenders make up a large number of false alarms.

Plan Review Fees and Permits (Fire Only)

Many fire departments review building plans for fire code compliance and inspect the installation of the fire systems during construction. The fire department often receives part of the permit fees paid to the city for these services. Fees also are charged for occupancy permits, special hazards permits, reviewing plans for renovating buildings, and reviewing new fire protection systems in existing buildings. Fees also are often charged for inspecting day care centers, hotels, hospitals, nursing homes, spray painting businesses, and other specific occupancies that require special permits to operate. Fees also are usually charged for permits that are required for hazardous activities such as open burning, public events, use of fireworks, making of movies, using large tents (circuses, etc.), and other special purposes.

Fines and Citations

The department will continue to charge fees for negligent fires, actions inconsistent with the law and failure to comply with codes.

This Public Hearing is to allow public input and comment on fees and charges that will become effective in FY 16/17. After this hearing, a resolution will be adopted updating the fees and charges.

IMPACT ON CITY RESOURCES

The study reflects that the recommended fee levels are set below their actual costs, amounting to a \$97,357 City provided "subsidy" (General Fund contribution) to fee payors. This "subsidy" represents the potential new revenue that the MFD could generate if it set its fees at full cost recovery. Before setting the recommended fees, the MFD considered the current fiscal climate and made every effort to temper the rates to minimize the impact to each affected business.

Fire Prevention Annual Estimated Revenue/Expenses
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FULL COST	REVENUE At Current Fees	REVENUE At Recommended Fees	GENERAL FUND SUBSIDY At Current Fees	GENERAL FUND SUBSIDY At Recommended Fee
\$424,677	\$83,218	\$327,320	\$341,459	\$97,357

It should be noted that there is no single precise method by which the exact number of inspections, re-inspections, and permits can be calculated. The estimated revenues were predicated upon every business falling within the MFD's inspection parameters and each business being inspected, being sent and invoice, and paying their fees within a 12 month period. It was also assumed that each business would be invoiced for the *full cost of each permit*. Therefore, it needs to be emphasized, that the fiscal impact of the revenue is directly affected by the number of inspections performed, the number of permits issued, and the compliance of the businesses. Coupling the fact that the Fire Marshal and Fire Inspector will be new to the Fire Department and will have a significant learning curve in acclimating to the department's various software and operating policies and procedures, and inspecting businesses which have not been inspected in years, it is anticipated that all business will not be inspected in the 12 month period, resulting in significantly lower revenues than projected in the study.

Because there are a myriad of variables involved in achieving the estimated revenues of \$327,320, at this time we are not recommending an increase in FY 16/17 revenues. If the increase in fees are adopted, the MFD will analyze its revenues after a one year period to determine if the revenues are achievable and/or sustainable. Depending upon the results, the MFD will then will take a pragmatic approach when incorporating the revenues into the proposed FY 17/18 budget.

In conclusion, there are two obvious reasons for the proposed changes to the MFD's fees.

1. To provide cost recovery for services for the MFD.
2. Create safety for the community.

The MFD is faced with an increasing number of calls for emergency services and an increasing number of businesses to inspect by mandated laws and for life safety of the community. Given MFD's budget constraints it is seeking approval to modify its fee structure to continue to be able to provide protection to the city and its residents.

ATTACHMENTS

1. NBS Fire Department Fee Study
2. Resolution