

ORDINANCE NO. 1999-01

**AN ORDINANCE LEVYING SPECIAL TAXES WITHIN
COMMUNITY FACILITIES DISTRICT NO. 5**

**Half Moon Bay Fire Protection District
Community Facilities District No. 5**

WHEREAS, on March 23, 1999, the Board of Directors of the Half Moon Bay Fire Protection District adopted Resolution 1999-02 entitled "A Resolution of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Pursuant to the Mello-Roos Community Facilities Act of 1982" (the "Resolution of Intention"), stating its intention to establish the Half Moon Bay Fire Protection District Community Facilities District No. 5 ("CFD No. 5") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), to finance certain services.

WHEREAS, notice was published as required by the Act relative to the intention of this Board to form CFD No. 5 and to provide for the financing of the services specified in the Resolution of Intention (the "Services");

WHEREAS, on April 27, 1999, this Board held a noticed public hearing as required by the Act relative to the determination to proceed with the formation of CFD No. 5 and the rate and method of apportionment of the special tax to be levied within CFD No. 5 to finance a portion of the costs of the Services;

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of CFD No. 5 and the levy of said special taxes were heard, substantial evidence was presented and considered by this Board and a full and fair hearing was held;

WHEREAS, subsequent to said hearing, this Board adopted Resolution 1999-04 "A Resolution of Formation of the Half Moon Bay Fire Protection District Community Facilities District No. 5, Authorizing the Levy of a Special Tax Within the District, Preliminarily Establishing an Appropriations Limit for the District and Submitting Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District" (the "Resolution of Formation") and Resolution No. 1999-05 "A Resolution Calling a Special Election for the Levy of a Special Tax for the Establishment of an Appropriations Limit on the Half Moon Bay Fire Protection District Community Facilities District No. 5," which resolutions established the District, authorized the levy of a special tax within the CFD No. 5, and called an election within the District on the proposition of levying a special tax, and establishing an appropriations limit within CFD No. 5, respectively; and

WHEREAS, an election was held within CFD No. 5 in which the eligible landowner electors approved said propositions by more than the two-thirds vote required by the Act.

NOW, THEREFORE, the Board of Directors of the Half Moon Bay Fire Protection District does hereby ordain as follows:

1. By the passage of this Ordinance, this Board hereby authorizes and levy special taxes within CFD No. 5 pursuant to California Government Code Sections 53328 and 53340, at the rate and in accordance with the formula set forth in the Resolution of Intention which Resolution is by this reference incorporated herein. The special taxes are hereby levied

commencing in fiscal year 1999-2000 and in each fiscal year thereafter to provide the Services and all costs of administering the CFD No. 5 in accordance with the provisions of the Rate and Method of Apportionment of the Special Taxes for CFD No. 5, which is attached hereto and incorporated herein as Exhibit A. The Board of Directors shall determine the special tax rate in the manner and as provided in Exhibit A.

2. The Fire Chief of the Half Moon Bay Fire Protection District is hereby authorized and directed each fiscal year to implement the special tax rate and determine the amount to be levied for the next ensuing fiscal year for each parcel of real property within CFD No. 5, in the manner and as provided in the Resolution of Intention and the Resolution of Formation.

3. Properties or entities of the State or local governments shall be exempt from any levy of the special taxes to the extent set forth in the rate and method of apportionment of special taxes included by reference in the Resolution of Formation; provided that, pursuant to Section 53340.1 of the Act and the Resolution of Formation, the special taxes shall be levied on any leasehold or possessory interests of nonexempt persons or entities in such properties. In no event shall the special taxes be levied on any parcel within the CFD No. 5 in excess of the maximum tax specified in the rate and method of apportionment of special taxes included by reference in the Resolution of Formation.

4. All of the collections of the special tax shall be used as provided for in the Act and in the Resolution of Formation including, but not limited to, the payment of the costs of the District in administering CFD No. 5, the payment of the costs of the Services and the costs of collecting and administering the special tax.

5. The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and 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; provided that any levies on leasehold or possessory interests shall be made on the unsecured County roll. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments. The Fire Chief of the District is hereby authorized and directed to provide all necessary information to the appropriate officials of the County of San Mateo ("County") in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured (or unsecured, as applicable) real property tax roll of the County for fiscal year 1999-2000 and for each fiscal year thereafter.

Notwithstanding the foregoing, the Fire Chief may collect the special taxes by means of district billing of the owners of land or interests therein subject to the levy of the special tax if the Fire Chief, in his sole discretion, determines that said method of collection will be more efficient and/or better serve the financial needs of the District and CFD No. 5. If any special taxes are collected by means of direct billing of the owners of land or interests therein, any such special taxes shall be delinquent if not paid when due as stated in such billing.

6. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within CFD No. 5, by a Court of competent jurisdiction, the balance of this ordinance and the application of the special tax to the remaining parcels within CFD No. 5 shall not be affected.

7. The Board President shall sign this Ordinance and the Secretary shall cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published in the area of the CFD No. 5.

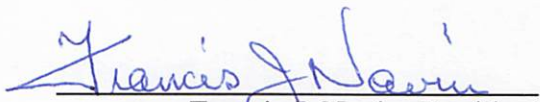
8. This Ordinance shall take effect thirty (30) days from the date of final passage.

PASSED AND ADOPTED by the Board of Directors of the Half Moon Bay Fire Protection District on this 25th day of May, 1999, by the following vote, to wit:

AYES: Francis J. Navin, Robert Myers, Bert Silva, Douglas Mackintosh,
Timothy Moran

NOES:

ABSENT:


Francis J. Navin, President
Board of Directors
Half Moon Bay Fire Protection District

ATTEST:



Bert Silva, Beard Secretary
Half Moon Bay Fire Protection District



Exhibit A

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Half Moon Bay Fire Protection District Community Facilities District No. 5 (Fire Suppression)

I. INTRODUCTION

A special tax shall be levied on each Parcel of land within Community Facilities District No. 5 of the Half Moon Bay Fire Protection District ("CFD No. 5"), and collected according to the Special Tax Liability determined by the Responsible Party of the Half Moon Bay Fire Protection District ("Fire District") through the application of the following procedures. All of the property within CFD No. 5, unless otherwise exempted by law or the express provisions of the rate and method of apportionment expressed below, shall be taxed to the extent and in the manner provided below.

It is intended that all special taxes applicable to Parcels be collected in the same manner and at the same time as ordinary ad valorem property taxes, and that special taxes so levied will be subject to the same penalties and procedures, sale and lien priority in case of delinquency as is provided for ad valorem taxes. Notwithstanding the above, at the discretion of CFD No. 5, the special taxes may be collected directly by CFD No. 5 by means of a process to be established by CFD No. 5.

II. CATEGORIES OF SPECIAL TAX AND DESIGNATION OF MAXIMUM SPECIAL TAX

A. RESIDENTIAL CATEGORY: The Residential Category includes each Parcel of developed Taxable Property within CFD No. 5 that is zoned or permitted to be used for residential purposes (but excluding Transient Lodging or Mobilehome Parks), and for which a certificate of occupancy has been issued. The Maximum Special Tax that may be levied annually on Taxable Property within the Residential Category during the Fiscal Year ending June 30, 1999 is \$260.00 per Dwelling Unit. A Dwelling Unit that is classified as "low or moderate income housing" by the City of Half Moon Bay or the County of San Mateo, will be assessed at 50% of the otherwise applicable rate for property in the Residential Category. (See Examples 1 and 2 on Attachment 1.)

B. TRANSIENT LODGING CATEGORY: The Transient Lodging Category includes each Parcel of developed Taxable Property within CFD No. 5 that is zoned or permitted to be used as a motel, hotel, motor lodge, Recreational Vehicle Park (as that term is defined in Health and safety Code Section 18215) and other similar facility for the purpose of transient occupancy consisting of 10 or more Rooms or Spaces (but excluding Mobilehome Parks), and for which a certificate of occupancy has been issued. Any area which is directly and solely related to retail and/or other commercial uses (such as a restaurant, bar or store area) shall be treated as separate Area of Use under the Non-Residential Category and not under the Transient Lodging Category. Lobbies, atria, open space, ballrooms, meeting rooms, hallways, service areas and all other areas necessary for the use and operation of the facility as a motel, hotel, motor lodge or Recreational Vehicle Park or other similar facility shall not be treated as a separate Area of Use, but shall be considered part and parcel of the Transient Lodging Category and taxed on a per Room or per Space basis only. Properties featuring several Areas of Use shall be taxed under the Mixed Use

Category. The Maximum Special Tax that may be levied annually on Taxable Property within the Transient Lodging Category during the Fiscal Year ending June 30, 1999 is \$41.60 per Room or Space. (See Example 4 on Attachment 1.)

C. MOBILEHOME PARK CATEGORY: The Mobilehome Park Category includes each Parcel of developed Taxable Property within CFD No. 5 that is zoned or permitted to be used as a Mobilehome Park (as that term is defined in Civil Code Section 798.4) consisting of 10 or more Spaces and for which a certificate of occupancy has been issued. The Maximum Special Tax that may be levied annually on Taxable Property within the Mobilehome Park Category during the Fiscal Year ending June 30, 1999 is \$41.60 per Space.

D. NON-RESIDENTIAL CATEGORY: The Non-Residential Category includes each Parcel of developed Taxable Property within CFD No. 5 which has been zoned or is permitted to be used for non-residential uses (including office, retail, industrial and other commercial uses but not Taxable Property designated under the Transient Lodging or Mobilehome Park Categories) on which a structure has been constructed with a Building Floor Area of 5,000 square feet or greater devoted to such non-residential uses, and for which a certificate of occupancy has been issued. The Maximum Special Tax that may be levied annually on Taxable Property within the Non-Residential Category during the Fiscal Year ending June 30, 1999 is \$0.0416 per square foot of Building Floor Area. (See Example 3 on Attachment 1.)

E. PARCELS WITH MIXED USE: Parcels within CFD No. 5 which are zoned or permitted to be used for uses which fall in more than one of the above Categories and for which a certificate(s) of occupancy has been issued allowing such uses(s) shall be taxed for each category of use. The calculation of the Maximum Special Tax shall be performed separately for each Area of Use. The same minimum thresholds for application of the special tax (10 Rooms for the Transient Lodging Category, 10 Spaces for the Mobilehome Park Category, and 5,000 square feet of Building Floor Area devoted to such non-residential uses for the Non-Residential Category) shall apply to each Area of Use. (See Example 5 on Attachment 1.)

F. ADJUSTMENTS TO MAXIMUM SPECIAL TAX: The Maximum Special Taxes for all Categories shall increase each Fiscal Year as determined annually by the Board of Directors of the Fire District by an amount not to exceed 2% per year.

G. DURATION: No special tax shall be levied against any Parcel in the Residential Category after the Fiscal Year ending June 30, 2037.

H. LIMITATION ON SPECIAL TAX INCREASE: Under no circumstances shall the special tax for a Parcel in the Residential Category increase in any one Fiscal Year more than ten percent (10%) over the prior Fiscal Year, due to consequence of delinquencies or default by any other Parcel in CFD No. 5.

III. ASSIGNMENT TO ANNUAL TAX CATEGORIES; LEVY

On or about July 1 of each year, but in any event in sufficient time to include the levy of the special taxes on the County's secured tax roll, the Responsible Party shall determine the Category representing each Parcel of land within CFD No. 5. Parcels subject to levy and their respective Tax Category shall be determined based upon the records of the County Assessor as of the March 1 preceding such July.

For each Fiscal Year, the Responsible Party shall review the prior Fiscal Year's generation of Property tax for the Fire District to determine the Special Tax Liability for the Fiscal Year. The amount of special tax to be paid (if any) shall be calculated separately for each Zone within CFD No. 5. Within each Zone, the amount of special tax to be paid (if any) shall be calculated separately for each Tax Category. The Responsible Party shall make available for review by the general public information regarding the Category to which each parcel is assigned and the information used to calculate the Special Tax Liability, if any, for each parcel.

The Fire District, having studied the fire protection requirements of various categories of property, has determined the revenue which is required from property and other taxes for each Tax Category that will be sufficient to fund the fire protection needs within that Tax Category. The Total Revenue Required for each Tax Category in Fiscal Year 1998-99 is defined as follows:

Residential	\$655.00 per Dwelling Unit
Transient Lodging	\$200.00 per Room or Space
Mobile Home Park	\$200.00 per Space
Non-residential	\$ 0.2635 per Square Foot of Building Floor Area

The Total Revenue Required shall be increased as of July 1 of each fiscal year by the percentage increase in the Consumer Price Index for All Urban Consumers, San Francisco/Oakland/San Jose Area for the preceding calendar year, if any.

A. For the Residential Category: The Special Tax Liability per Dwelling Unit within the Residential Category shall be calculated by subtracting (a) the average amount of property taxes, on a per Dwelling Unit basis, received by the fire District with respect to all developed property within such Category within the Zone for the immediately preceding Fiscal Year, from (b) the Total Revenue Required for this Category. In no event, however, shall such Special Tax Liability per Dwelling Unit exceed the Maximum Special Tax per Dwelling Unit for the Residential Category as set forth above. The total Special Tax Liability for any Parcel within the Residential Category shall be determined by multiplying the Special Tax Liability, as set forth above, by the total number of Dwelling Units on the Parcel.

B. For the Transient Lodging Category: The Special Tax Liability per Room or Space within the Transient Lodging Category shall be calculated by subtracting (a) the average amount of property taxes, on a per Room and/or per Space basis, received by the Fire District with respect to all developed property within such Category within the Zone for the immediately preceding Fiscal Year, from (b) the Total Revenue Required for this Category. In no event, however, shall such Special Tax Liability per Room or Space exceed the Maximum Special Tax for the Transient Lodging Category as set forth above. The total Special Tax Liability for a Parcel within the Transient Lodging Category shall be determined by multiplying the Special Tax Liability, as set forth above, by the total number of Rooms and/or Spaces on the Parcel.

C. For the Mobile Home Park Category: The Special Tax Liability per Space within the Mobile Home Park Category shall be calculated by subtracting (a) the average amount of property taxes, on a per Space basis, received by the Fire District with respect to all developed property within such Category within the zone for the immediately preceding Fiscal Year from (b) the Total Revenue Required for this Category. In no event, however, shall such Special Tax Liability per Space exceed the Maximum Special Tax for the Mobilehome Park Category as set forth above. The total Special Tax Liability for a Parcel within the Mobile Home Park Category

shall be determined by multiplying the Special Tax Liability, as set forth above, by the total number of Rooms and/or Spaces on the Parcel.

D. For the Non-Residential Category: The Special Tax Liability per square foot of Building Floor Area within the Non-Residential Category shall be calculated by subtracting (a) the average amount of property taxes, on a per square foot basis, received by the Fire District with respect to all developed property within such Category within the zone for the immediately preceding Fiscal Year from (b) the Total Revenue Required for this Category. In no event, however, shall such Special Tax Liability per square foot of Building Floor Area exceed the Maximum Special Tax for the Non-Residential Category as set forth above. The total Special Tax Liability for a Parcel within the Non-Residential Category shall be determined by multiplying the Special Tax Liability, as set forth above, by the total square footage of Building Floor Area on the Parcel.

E. For the Mixed Use Category: The Special Tax Liability for any Parcels featuring a mix of uses which fall in more than one of the above Categories shall be calculated separately for each Area of Use. In no event shall the Special Tax Liability exceed the Maximum Special Tax for the particular Category related to each Area of Use.

F. Decreases in Property Taxes: Notwithstanding anything else contained in this "Rate and Method of Apportionment of Special Taxes," if in any Fiscal Year the total amount of property taxes received by the fire District with respect to any Zone decreases from any prior Fiscal Year because the County, the State, or some other entity decreases the percentage of property taxes allocated to the Fire District, then the amount of special tax to be paid (if any) shall be calculated as if the percentage of taxes allocated to the Fire District was the same as the highest percentage received by the Fire District in any Fiscal Year before such decrease.

G. Should the calculation of Special Tax Liability for any Category result in an amount less than zero, no tax liability, nor any entitlement for a refund or credit against future taxes shall result.

IV. TREATMENT OF ZONES WITHIN CFD No. 5

If additional territory is annexed to CFD No. 5, it may be subject to a special tax based upon this rate and method of apportionment or upon such rate and method of apportionment as may be adopted by the Fire District and electors of the territory to be annexed. The initial property included within CFD No. 5 shall be one separate and complete Zone for all purposes herein (the "Initial Zone"). As set forth in Section III below, the special tax to be paid (if any) within the Initial Zone shall be calculated separately from all other zones, and within the Initial Zone, the special tax to be paid (if any) shall be calculated separately for each Tax Category. Any additional territory annexed into CFD No. 5 shall constitute a new Zone for all purposes hereunder (to be delineated Zone 2, Zone 3, etc.), separate and distinct from the Initial Zone and any additional zones created after the Initial Zone; provided, however, that additional territory may be annexed into an existing Zone upon the affirmative vote of both (i) two-thirds (2/3) of the registered voters residing within such territory to be annexed (or if less than 12, by the affirmative vote of persons owning two-thirds (2/3) of the land within such territory to be annexed, and (ii) two-thirds (2/3) of the registered voters residing within such existing Zone (of if less than 12, by the affirmative vote of persons owning two-thirds (2/3) of the land within such existing Zone.)"

V. DEFINITIONS

Area of Use means the area falling within a single tax category of a Parcel devoted to multiple uses.

Building Floor Area means the area included within the surrounding exterior walls of a building, including each floor of multiple story buildings, exclusive of vent shafts and courts (defined here as open and unobstructed to the sky). The Building Floor Area will be determined by reference to approved building plans and/or such documentation.

CFD No. 5 means the Community Facilities District No. 5 (Fire Suppression) of the Half Moon Bay Fire Protection District.

Fire District means the Half Moon Bay Fire Protection District.

Dwelling Unit means each separate building, or housing unit within a common building, used to provide living accommodations which are intended, designed or legally required to be occupied by a single family unit and for which a certificate of occupancy has been issued (but excluding attached or detached "in-law" quarters" or so called "granny units" which shall not constitute separate Dwelling Units hereunder).

Fiscal Year means the period starting on July 1, and ending the following June 30.

Maximum Special Tax shall be the maximum amount of special tax that may be levied annually, as determined by category of use as set forth in Section II above.

Parcel means any County Assessor's Parcel or that portion thereof that is within the boundaries of the Fire District based on the equalized tax rolls of the County.

Responsible Party is any person or persons who the Half Moon Bay Fire Protection District Board of Directors may appoint from time to time to compute the levy of the special taxes within CFD No. 5.

Room is defined as an inhabitable area (consisting of a room or suite of rooms), which is intended, designed or legally required to be separately rented for the purpose of transient lodging and for the exclusive use of the transient lodger and for which a certificate of occupancy has been issued.

Space is defined as a pad or parking area for a recreational vehicle or mobilehome which is intended, designed or legally required to be separately rented and is intended for occupancy. Parking areas which are intended solely for the storage of Recreational Vehicles or Mobile Homes that are not occupied are not "Spaces."

Tax Categories are those categories set forth in the body hereof.

Taxable Property is all real property within the boundaries of the Fire District which is not exempt from the special tax pursuant to law, except that the following property shall not be taxed: (i) any acres of land owned, conveyed or irrevocably offered for dedication to a public agency; (ii) land which is a public right of way; (iii) land which is an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement; (iv) land used primarily for agricultural related purposes; or (v) any portion of a parcel used for recreational

purposes, including, but not limited to golf courses, trails and open space, or any maintenance or accessory buildings such as storage sheds, landscaping equipment storage areas (but not those portions of structures devoted to commercial uses, including, but not limited to, restaurants, bars, pro shops, and banquet facilities) used in connection therewith.

Zone means the area as noted on the boundary map that defines the special tax area for CFD No. 5. Should any additional territory be annexed to CFD No. 5, it shall be a new zone for purposes of calculating the Maximum Special Tax.

ATTACHMENT 1 - EXAMPLES OF MELLO-ROOS TAX CALCULATIONS

Example 1	Step	Residential Homes	Property Value	1% Tax	18.7% HMBFPD
\$10,995.60 12 \$ 916.30 \$ 690.37 <u>\$ 225.93</u> No added tax	1. 2. 3. 4. 5. a. b.	Obtain prior years taxes for developed homes Determine the number of homes developed Divide HMBFPD taxes by number of homes developed Compare average by zone with required amounts More or (less) than funds needed for HMBFPD (If more, then no added special tax required) (If less, then add up to \$260 special tax per home)	\$5,880,000	\$58,800	\$10,995.60
Example 2 \$12,155.00 30 10 20 \$ 405.17 \$ 690.37 <u>(\$ 285.20)</u> \$ 260.00 \$ 130.00	Step 1. 2. a. b. 3. 4. 5. a. b.	<u>Low/Moderate Income Residential Homes</u> Obtain prior years taxes for developed homes Total homes developed (Developed homes not classified as low/moderate) (Developed homes classified as low/moderate) Divide HMBFPD taxes by number of homes developed Compare average by zone with required amounts More or (less) than funds needed for HMBFPD (If more, then no added special tax required) (If less, then add up to \$260 special tax per home) (for homes classified as low/moderate, charge at 50%)	<u>Property Value</u> \$6,500,000	<u>1% Tax</u> \$65,000	<u>18.7% HMBFPD</u> \$12,155.00
Example 3 \$ 2,244.00 10,000 0.2244 .2635 <u>\$ 391.00</u> \$ - \$.0391	Step 1. 2. 3. 4. 5. a. b.	<u>Commercial Property</u> Obtain prior years taxes for developed non-residential Total developed square footage Divide HMBFPD taxes by developed square footage Compare average by zone with required amounts More or (less) than funds needed for HMBFPD (If more, then no added special tax required) (If less, then add up to \$0.0416 special tax per square foot)	<u>Property Value</u> \$1,200,000	<u>1% Tax</u> \$12,000	<u>18.7% HMBFPD</u> \$ 2,244.00

<u>Example 4</u> \$ 7,480.00 50 \$ 149.60 \$ 210.80 (\$ <u>61.20</u>) \$ - \$ 41.60	<u>Step</u> 1. 2. 3. 4. 5. a. b.	<u>Transient Lodging</u> Obtain prior years taxes Total developed rooms Divide HMBFPD taxes by rooms Compare average by zone with required amounts More or (less) than funds needed for HMBFPD (If more, then no added special tax required) (If less, then add up to \$41.60 special tax per room or space)	<u>Property Value</u> \$4,000,000	<u>1% Tax</u> \$40,000	<u>18.7% HMBFPD</u> \$ 7,480.00
<u>Example 5</u> Based on Exhibits 3 and 4		<u>Mixed Uses</u> Commercial Property Transient Lodging	<u>Tax per Unit</u> \$ 0.0391 \$ 41.60	<u>Number of Units</u> 10,000 50	<u>Total Added Tax</u> \$ 391.00 \$ 2,080.00