

DIAMONDHEAD FIRE PROTECTION DISTRICT

4440 KALANI DRIVE, DIAMONDHEAD MS 39525

AMENDED AND RESTATED
DIAMONDHEAD FIRE PROTECTION DISTRICT
SERVICES RATE ORDINANCE

EFFECTIVE AS OF

October 29, 1992

AND

AMENDED AS OF

July 1, 2022

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**A RESOLUTION OF THE DIAMONDHEAD FIRE PROTECTION DISTRICT
TO PROVIDE FOR THE COLLECTION OF USER CHARGES FROM
RESIDENTIAL, COMMERCIAL, AND OTHER USERS OF THE PUBLIC
FIRE PROTECTION SERVICES OF DIAMONDHEAD FIRE PROTECTION
DISTRICT IN THE VICINITY OF THE SUBDIVISION OF DIAMONDHEAD,
COUNTY OF HANCOCK, STATE OF MISSISSIPPI.**

SECTION 1.0 - SERVICES PROVIDED AND COSTS

- 1.1. The Diamondhead Fire Protection District (the "District") was formed for the purpose of protecting the public health and safety of residents and property owners in the District as a whole by establishing fire protection and emergency services throughout the community, benefiting each and every property owner within the District.
- 1.2. The Board of Commissioners of the District is charged by its enabling legislation, Miss. Code Ann. Section 19-5-151, et seq. (1972 and Supp. 2022) with the power, acting by and through the Board of Commissioners of such District as its governing authority, to fix, maintain, collect and revise rates and charges for services rendered by or through the facilities of the District.
- 1.3. The Board of Commissioners finds that all residents and owners of property located within the District are interested in and affected by the establishment of fire protection and emergency services. The Board has the power to enact regulations for safety and other purposes to secure the general health of those residing in the District and to prevent, remove, and abate nuisances. Further, the Board of Commissioners finds unassociated users, defined as a person or entity not associated with a property that is currently paying fees for fire protection are likewise so interested and affected. For example, a patron or vendor of a business that pays fire fees is covered by the fees paid by the business, and a guest of a resident that pays fire fees is covered by the association with that resident. Such unassociated users that directly receive services from the DFPD (including but not limited to the District responding to a vehicle fire, motor vehicle accident, hazardous materials incident, or other emergency incidents) are likewise so interested and affected. As such, the Board has the power and authority to enact regulations to secure the general health of those unassociated users and to fix, maintain, collect, and revise rates and charges for services rendered to those unassociated users.
- 1.4. The Board of Commissioners finds that it is reasonable and desirable to enact an ordinance to harmonize, codify and reaffirm previously adopted resolutions with respect to fire fees charged in arrears for services already rendered by the District, and to make Diamondhead property owners, residents, and unassociated users when those entities have been provided direct services, aware of the services provided.
- 1.5. The Diamondhead Fire Protection District provides the following services to owners of real property in the Diamondhead community, listed in no particular order:
 - 1.5.1. Reporting damaged fire hydrants to the Diamondhead Water and Sewer District for repair;
 - 1.5.2. Inspection of existing commercial buildings for safety and fire violations;
 - 1.5.3. Inspection of pre-construction commercial building plans for safety and fire violations;

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- 1.5.4. Creating a pre-fire plan for any commercial building that poses an unusual fire hazard;
 - 1.5.5. Removal of obstructions to ensure access to fire hydrants;
 - 1.5.6. Providing public training classes in the use of first aid;
 - 1.5.7. Providing public training classes in the use of fire extinguishers;
 - 1.5.8. Regular in-service training of firefighters;
 - 1.5.9. Responding to all fires, medical emergencies, accidents, or reasonable public calls for assistance;
 - 1.5.10. Performing daily inspection of fire response vehicles for damage, worn parts, proper fluid and fuel levels, and completion of daily check sheets;
 - 1.5.11. Performing daily and periodic maintenance on fire response vehicles, including cleaning, washing, waxing, and operating the pump vehicles daily;
 - 1.5.12. Annual testing of fire response vehicles to maintain and verify their good working order;
 - 1.5.13. Annual, periodic, or daily testing of firefighting equipment, including ground ladders, fire hoses, fire extinguishers, pumping apparatus, aerial apparatus, self-contained breathing apparatus (SCBA), spare oxygen tanks, portable power equipment, and protective firefighting clothing to maintain and verify their good working order;
 - 1.5.14. Maintaining and updating a daily inventory record for each fire response vehicle;
 - 1.5.15. Making presentations to groups regarding the fire department's activities;
 - 1.5.16. Maintaining, cleaning, and operating the fire station, including utilities (electric, water, gas, telephone, internet) and radio communications equipment;
 - 1.5.17. Striving to maintain a low fire rating through proper training; fast response time; accurate record keeping; diligent management of facilities and communications; and the use and maintenance of quality, functioning equipment. A low fire rating equates to lower insurance rates for property owners, and such savings encourage businesses and residents to relocate to the Diamondhead community;
 - 1.5.18. Application for, and management of, governmental grants for the improvement of emergency services, which benefits property owners in the Diamondhead community.
- 1.6. Diamondhead Fire Protection District Budget; ... see Attachment A....

SECTION 2.0 - USER CHARGES

- 2.1.** A user charge shall be the charge levied on all owners of property within the District which contain one or more buildings or other such structures, including, but not limited to, persons, firms, corporations, or associations that have been afforded fire protection services.
- 2.1.1.** An unassociated user charge shall be the charge levied on all entities who have received direct services from the District (including but not limited to the District responding to a vehicle fire, motor vehicle accident, hazardous materials incident, or other emergency incidents). Charges for services rendered shall be based on the FEMA published rates for equipment at the time of the incident and actual cost for personnel, including wages and benefits.
- 2.2.** The user charge shall reflect the costs of operation and maintenance (including replacement) and payment of any debt service of the Diamondhead Fire Protection District.
- 2.3.** Each user will pay the fees accrued to the owner's property for the services already rendered by the District, based on the zoned use of the property and the District's fee formula. Effective July 1, 2023, these charges are as follows:
- 2.3.1.** Residential users (users owning a single-family residence, condominium, townhouse, or cluster home) shall pay a monthly charge of twenty-eight dollars (\$28.00).
- 2.3.2.** Commercial and other non-residential users shall pay a monthly charge, based on the following formulas:
- 2.3.2.0.** For buildings of 0 - 1,750 square feet, the fee is twenty-eight dollars (\$28.00) per month.
- 2.3.2.1.** For buildings of 1,751-3,000 square feet, the fee is the sum of twenty-eight dollars (\$28.00) plus .010 dollars per square foot of gross horizontal floor area in excess of 1,750 square feet per month.
- 2.3.2.2.** For buildings of 3,001-10,000 square feet, the fee is the sum of forty dollars and fifty cents (\$40.50) plus .009 dollars per square foot of gross horizontal floor area in excess of 3,000 square feet per month.
- 2.3.2.3.** For buildings in excess of 10,000 square feet, the fee is the sum of one hundred three dollars and fifty cents (\$103.50) plus .006 dollars per square foot of gross horizontal floor space in excess of 10,000 square feet per month.
- 2.3.2.4.** For commercial buildings in excess of 30 feet tall to the eaves measured from the natural grade at the base of the structure or buildings over 50,000 square feet under one roof, the calculated fee based on the above formulas will be increased by fifty percent (50%). The higher rate is due to the additional staffing and equipment requirements such buildings impose on the Fire District.

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- 2.3.3. Users' charges listed in Sections 2.3.1. and 2.3.2. shall be reduced by twenty-five percent (25%) for all gross horizontal floor space protected by a certified, functioning fire sprinkler system built to the current, at the time of installation, applicable NFPA standard. The system must be maintained according to the NFPA 25 Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems to qualify for a discount.
- 2.3.4. For users listed in 2.3.2., the calculated area of the structure may be reduced by fifty percent (50%) for gross horizontal square footage that is not enclosed. Example: a covered assembly area with no walls. The user must petition the District Board of Commissioners and provide justification that such an area is constructed of materials that are a minimal fire hazard and being used in a manner that is a minimal fire hazard. This reduction shall not apply to unenclosed parking garages.
- 2.3.5. Users covered under 2.3.2. with detached utility structures less than 400 square feet shall have the area for such buildings added to the gross horizontal area of the main structure they are associated with rather than a separate account.
- 2.3.6. Tax-exempt, nonprofit houses of worship where religious exercises are carried out shall pay a monthly charge equal to the residential rate.
- 2.3.7. In the event of multiple structures providing the same service with common ownership and common management on common ground, and serviced by no more than two (2) adjacent fire hydrants, gross floor area is defined as the area of all floors of all buildings as measured from the perimeter of the exterior walls.
- 2.4. Condominiums, townhouses, and cluster home fees are to be billed to the various associations representing them.
- 2.5. Condominium and townhouse associations that choose to collect the monthly fire protection fees from their members and then forward one payment per month to the Fire District will receive a one-dollar (\$1.00) per residential unit discount for such collection and payment activity.
- 2.6. Builders of new homes under construction shall be held responsible for fire protection charges. Fire protection charges shall begin the calendar month following the roof being closed. Real estate closing attorneys and real estate closing firms shall be held responsible for the collection and payment of fire fee liens once said lien is filed with the Chancery Clerk as to that parcel of real property.
- 2.7. All owners of property with structures situated within the Diamondhead Fire Protection District are users of the District's services and shall pay the aforementioned charges. All unassociated users that directly receive services from the DFPD (including but not limited to the District responding to a vehicle fire, motor vehicle accident, hazardous materials incident, or other emergency incidents) shall pay for services rendered to them based on the FEMA published rates for equipment at the time of the incident and actual cost for personnel, including wages and benefits.

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- 2.8. The Diamondhead Fire Protection District Board of Commissioners will determine the rate of user charges. The Board of Commissioners will review, not less often than once every year, the user charges, the fire contributions of users, the total costs of operation and maintenance (including replacement), and the debt service of the District. The Board shall revise the user charge, if necessary, to accomplish the following:
- 2.8.1. Maintain the proportionate distribution of operation and maintenance and debt service costs among users as provided herein;
 - 2.8.2. Generate sufficient revenue to pay the total costs necessary for the proper operation, maintenance, and retirement of any debt service of the Fire Protection District;
 - 2.8.3. Generate sufficient revenue to pay all obligations under any valid agreement not otherwise covered by any ad valorem tax permitted by law.

SECTION 3.0 - COLLECTION AND LATE FEES

- 3.1. Any account with a balance of two times the current monthly service fee or more will be assessed a \$5.00 late fee when processing monthly fees. Any bank fees charged to the Fire District associated with payments returned from the bank due to NSF will be passed on to the customer's Fire District account plus an additional \$5.00 for incurred labor to the fire district. If an account is over 90 days past due, the Fire District will send a collection letter via regular U.S. mail. At 120 days past due, the Fire District will send a certified letter advising the customer that the Fire District's next step to collect the debt will be through Justice Court. For any account over \$300.00 past due or any user who consistently makes irregular payments allowing their balance to grow, the Fire District will file the appropriate paperwork with Justice Court to collect the unpaid debt. Any cost in postage or court fees accrued in the process of collecting a debt owed to the District will be added to the customer's account balance.
- 3.2. Upon the continued failure of such user to pay said charges after the demand letter is sent, the District will file suit and seek a judgment for all fire fees due, all attorney's fees, costs of court, the legal rate of interest, and other costs of collection allowed by law.
- 3.3. For accounts on which a judgment has been received and lien filed yet no progress is made on paying off the balance due, when the account balance reaches \$1000.00, the District will file the appropriate paperwork to demand a court-ordered financial assessment of the customer's finances and assets.
- 3.4. Whereas the District does not have unlimited resources for processing all accounts that meet the criteria of the collection immediately, the District will prioritize accounts in order of highest balances first.

SECTION 4.0 - AMENDMENTS

- 4.1. This ordinance shall be amended as necessary to comply with State and Federal Regulations and Laws and any inter-service or interlocal agreements entered into by the Board of Commissioners.

SECTION 5.0 - VALIDITY

- 5.1. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- 5.2. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance, which can be given effect without such invalid part or parts.

SECTION 6.0 - ORDINANCE IN FORCE

- 6.1. This ordinance shall be in full force and effect from and after its passage, approval, and recording, the public welfare requiring it.

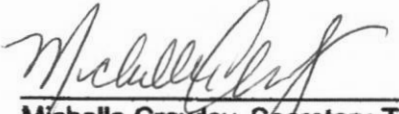
After being moved by Commissioner Michelle Crowley to approve as amended by Attorney Jason Savarese and seconded by Commissioner Anthony Sciacca, the foregoing Amended and Restated Diamondhead Fire Protection District Services Rate Ordinance was put to a vote, and the result was as follows:

| | |
|----------------------|------------------|
| Commissioner Reddien | voted <u>Aye</u> |
| Commissioner O'Brien | voted <u>Aye</u> |
| Commissioner Fozard | voted <u>Aye</u> |
| Commissioner Crowley | voted <u>Aye</u> |
| Commissioner Sciacca | voted <u>Aye</u> |

The vote being as shown, this ordinance was adopted on June 22, 2022.



Charles Reddien, Chairman
Diamondhead Fire Protection District



Michelle Crowley, Secretary-Treasurer
Diamondhead Fire Protection District