

**ORDINANCE NO. 35**

**AN URGENCY ORDINANCE OF THE SAN RAMON VALLEY FIRE PROTECTION DISTRICT REQUIRING NOTICE AND COST RECOVERY ASSOCIATED WITH MONITORING WORK IN HIGH FIRE-RISK AREAS AND THE DEPLOYMENT OF SAFETY AND INFRASTRUCTURE PROTECTION TEAMS BY ELECTRIC UTILITY COMPANIES (AS AMENDED)**

**WHEREAS**, the San Ramon Valley Fire Protection District (“District”) is the sole and exclusive provider of fire protection, prevention, and suppression services within its jurisdictional territory, as determined by the Contra Costa County Local Agency Formation Commission and in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code § 56000 *et seq.*); and,

**WHEREAS**, in the wake of recent catastrophic wildfires in California, and pursuant to Senate Bill 901 and rules of the California Public Utilities Commission (“CPUC”), publicly owned California electric utilities are required to prepare plans for constructing, maintaining, and operating their electrical lines and equipment in manners that minimize the risk of wildfire; and,

**WHEREAS**, on February 6, 2019, the PG&E Corporation and Pacific Gas and Electric Company (collectively “PG&E”) submitted to the CPUC a “Wildfire Safety Plan” for minimizing risk of further wildfires caused by PG&E equipment; and,

**WHEREAS**, certain portions of the District which fall within the High, Very High and Extreme fire threat zones as identified on the most recent California Department of Forestry and Fire Protection Fire and Resource Assessment Program map and/or within the Tier 2 – Elevated and Tier 3 – Extreme zones as identified on the most recent California Public Utilities Commission Fire-Threat Map (areas hereafter referred to as high fire risk areas, or “HFRA”) during California wildfire season, which shall be defined for the purposes of this Ordinance as April 15 to December 1, and may be extended by the District to accommodate climate change conditions as reasonably necessary and with prior public notice; and,

**WHEREAS**, among other things, the Wildfire Safety Plan proposes to deploy Safety and Infrastructure Protection Teams (“SIPT”) to support PG&E’s work on its overhead electric infrastructure in a (“HFRA”). The SIPT is to be comprised of individuals with training in fire prevention, fire suppression, and emergency medical response who are deployed on Type 6 engines, and will sometimes be located at the site that specified work involving “Hot Work” by PG&E crews is to be conducted, where “Hot Work” is defined as “[o]perations including cutting, welding, Thermitwelding, brazing, soldering, grinding, thermal spraying, thawing pipe, installation of torch-applied roof systems or any other similar activity” (Cal. Fire Code, § 202) on electric infrastructure and working on energized overhead power lines-greater than 15 kV; and,

**WHEREAS**, the Wildfire Safety Plan permits PG&E to implement a Public Safety Power Shut-Off (PSPS) to also minimize the risk of wildfires; and,

**WHEREAS**, to ensure the orderly provision of emergency services, there is a need for PG&E's SIPTs and PSPSs to coordinate with the local or District Incident Commander in the event of a fire or medical emergency, or both; and,

**WHEREAS**, in light of the catastrophic loss of life and property caused by recent wildfires in connection with electrical utilities, prior notice of the deployment of SIPT vehicles and personnel within the District would allow the District to preposition apparatus and efficiently allocate staffing and equipment resources to coordinate for any actions requiring fire prevention or emergency medical response by the District; and,

**WHEREAS**, considering PG&E's failures in implementing the largest PSPS in the history of California, the District has determined the need to preposition apparatus and efficiently allocate staffing and equipment resources to adequately protect the public against loss of life or property; and,

**WHEREAS**, amendment of the District's current Cost Recovery Ordinance is necessary to authorize the District to recover the costs incurred by the District for such prepositioning and response actions; and,

**WHEREAS**, the District has determined there is a need for advance notice of electric utilities performing scheduled, "non-emergency" – Hot Work in a HFRA within the District's jurisdictional boundaries when a Red Flag Warning has been issued by the National Weather Service for areas within the District's jurisdictional boundaries.

**NOW THEREFORE BE IT ORDAINED THAT** the Board of the District declares as follows:

**SECTION 1. PRIOR NOTICE REQUIREMENT**

As the District is the exclusive provider of fire prevention, fire suppression, and emergency response within its service area, PG&E and any other electrical utility intending to (i) perform scheduled, "non-emergency" Hot Work in a HFRA within the District's jurisdictional boundaries during California wildfire season, (ii) deploy a SIPT or similar fire suppression or emergency response crews to a location where Hot Work will be performed in a HFRA within the District's jurisdictional boundaries during California wildfire season, or (iii) initiate a PSPS within the District's jurisdictional boundaries, shall provide the District with at least 24 hours' prior notice – and preferably 48 hours' prior notice – of its intent to perform such non-emergency Hot Work or deploy SIPT crews and vehicles in a HFRA within the District, or to

initiate a PSPS within the District. In the rare event that 24 hours' notice is not possible due to unforeseen circumstances, then the electrical utility shall provide the District with prior notice at the earliest possible time of its intent to perform such work, deploy SIPT crews and vehicles, or initiate a PSPS within the District. In situations in which critical or emergency repairs necessitate an electrical utility to perform Hot Work in a HFRA and/or deploy SIPT crews in a HFRA within the District's jurisdictional boundaries during California wildfire season in less than 48 hours, notice shall be given to the District at the earliest possible time.

Notice shall be given to the District by the electrical utility via phone and email at:

Fire Chief  
San Ramon Valley Fire Protection District  
**Telephone:** (925) 838-6600  
**Email:** Notifications@srvfire.ca.gov

Should a SIPT or equivalent crew be dispatched by an electrical utility to perform non-emergency Hot Work in a HFRA within the District's jurisdictional boundaries during April 15 to December 31, or a PSPS initiated within the District's jurisdictional boundaries, without providing prior notice to the District, the electric utility shall be subject to a fine of \$500.

## **SECTION 2. RED FLAG WARNING**

PG&E and any other electrical utility shall provide the District at least 24 hours' prior notice of its intent to perform "non-emergency" Hot Work in a HFRA within the District's jurisdictional boundaries during California wildfire season during periods when a Red Flag Warning has been issued by the National Weather Service for those areas within the District's jurisdictional boundaries. In situations in which critical or emergency repairs necessitate an electrical utility to perform Hot Work in a HFRA during a Red Flag Warning, notice shall be given to the District at the earliest possible time in the same manner prescribed in Section 1.

Should an electrical utility perform scheduled, "non-emergency" Hot Work in a HFRA within the District's jurisdictional boundaries during California wildfire season when a Red Flag Warning has been issued by the National Weather Service for those areas within the District's jurisdictional boundaries without providing prior notice, the electric utility shall be subject to a fine of \$500.

## **SECTION 3. COST RECOVERY**

The District's service fee and cost recovery schedule, as set forth in Ordinance No. 28 as amended, is hereby further amended to include the following fees for repositioning and allocation of District resources in connection with the initiation of a PSPS event. Unless otherwise indicated, the District's standard fees and cost recovery schedule shall apply to emergency response to incidents pertaining to or resulting from work performed by electric utilities.

The District’s rates for repositioning and allocating resources in connection with the response to a PSPS event shall include:

- The costs resulting from the retention of a single emergency medical transport team procured in preparation or in response to the initiation of a PSPS event, to the extent such a transport team is needed in addition to emergency medical transport to be retained in response to Red Flag Warning days or other conditions, where there was no advance notification of the PSPS event or the PSPS event affects more than 25% of the District’s service area, at the hourly and flat rates established in the District’s Service Rate Schedule and Equipment Rate Schedule pursuant to Ordinance 28, as amended, provided the electric utility reasonably agrees on the need for the incremental procurement.

All other fees in the District’s Cost Recovery Ordinance shall remain in full force and effect. The fees and charges set forth in this Ordinance are subject to an annual cost-of-living increase based on the Consumer Price Index (CPI) of the Urban Consumers San Francisco-Oakland Area as developed by the Bureau of Labor Statistics of the U.S. Department of Labor or two percent (2%), whichever is greater. This annual inflationary adjustment shall occur automatically on July 1<sup>st</sup> of each year. Further, the fees or charges set forth in this Ordinance may from time to time be supplemented, altered, or additional fees may be added in order to offset the District’s direct costs of rendering services, with such changes being performed either by Resolution or Ordinance of the District Board of Directors.

#### **SECTION 4. SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause, phrase or word in this Urgency Ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining provisions of this Ordinance. The Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, phrase or word of this Urgency Ordinance regardless of the unconstitutionality or invalidity of any other section, subsection, subdivision, paragraph, sentence, clause, phrase or word herein.

#### **SECTION 5. ENVIRONMENTAL DETERMINATION**

The proposed Ordinance is not a “Project” because it has no potential for causing a significant physical impact on the environment and therefore is not subject to review under the California Environmental Quality Act (“CEQA,” Public Resources Code Section 21000 *et seq.*). In addition, the proposed Ordinance is exempt under the definition of a “Project” in Section 15378(b)(3) of the regulations implementing CEQA (the “CEQA Guidelines,” Title 14 of the California Code of Regulations, Sections 15000 *et seq.*) in that the proposed Ordinance concerns a government funding mechanism or fiscal activity that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. The Ordinance is also exempt under CEQA Guidelines Section 15307 as an action to protect natural resources and protection of the environment.

**SECTION 6. URGENCY FINDINGS**

The District Board of Directors hereby finds and determines that this Urgency Ordinance is necessary because of the facts set forth in the Ordinance Recitals:

**SECTION 7. DECLARATION OF URGENCY/EFFECTIVE DATE**

Based on the forgoing Recitals and findings, all of which are deemed true and correct, this Urgency Ordinance is urgently needed for the immediate preservation of the public health, safety and welfare within the meaning of Article IV, Section 8(d) of the California Constitution. This Urgency Ordinance shall take immediate effect and be in full force upon its passage and adoption.

**PASSED AND ADOPTED on OCTOBER 27, 2021, by the following Vote:**

**AYES:** STAMEY, CREAM, PARKER, LEE (4-0)

**NOES:** NONE

**ABSTAIN:** NONE

**ABSENT:** NONE

DocuSigned by:

*Matthew Stamey*

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Matthew Stamey, Board President

**ATTEST:**

DocuSigned by:

*Stephanie Sakai*

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Stephanie E. Sakai, District Clerk

**APPROVED AS TO CONTENT**

DocuSigned by:

*Paige Meyer*

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Paige Meyer, District Fire Chief

**APPROVED AS TO FORM**

DocuSigned by:

*Stephanie Sakai*

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Stephanie E. Sakai, District Counsel