

SUNNYSLOPE COUNTY WATER DISTRICT

ORDINANCE NO. 60

AN ORDINANCE OF SUNNYSLOPE COUNTY WATER DISTRICT
(AMENDING DISTRICT CODE §§ 3.40.090, 3.40.150, 4.32.160, 4.32.190, 4.36.060, AND
REPEALING § 4.32.190)
(CHANGING RATES, FEES AND CHARGES FOR WATER AND SEWER SERVICES)

Be it ordained by the Board of Directors of
Sunnyslope County Water District
as follows:

Section 1. Authority. This ordinance is enacted pursuant to Sections 30000 and following of the California Water Code, and Sections 66013 and 66016 of the California Government Code, and Section 6 of Article XIII D of the California Constitution.

Section 2. Findings.

A. This ordinance is considered for action by the Board of Directors at a regularly scheduled and noticed meeting. The agenda was posted and notice of a public hearing on the ordinance was published in accordance with law in the Hollister Freelance and the Pinnacle. A summary of the ordinance prepared by the district's General Manager in consultation with the district's legal counsel was published and a certified copy of the full text of the proposed ordinance was posted in the office of the board prior to the Board meeting of December 20, 2001. At least 10 days prior to the meeting, the district made available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the rates, fees and charges are levied, and the revenue sources anticipated to provide the service, including General Fund revenues. Certificates of publication will be filed with the minutes of this meeting.

B. Rates for regular water service and for interruptible service are established by Section 3.40.150 and Table 3.40.150 of the District Code. Monthly meter charges were last amended in 1998, and other rates were last amended in 1995.

C. Rates for sewer service are established by Section 4.36.060 and Table 4.36.060 of the District Code. These rates were last amended in 1990.

D. A connection charge for water service is established by Section 3.40.090 of the District Code. This charge was last amended in 1994.

E. A connection charge for sewer service is established by Section 4.32.160 of the District Code. This charge was last amended in 1996.

F. An additional connection charge for newly annexed areas is established by Section 4.32.190 of the District Code. This charge was established in 1972 and has not been amended. This charge has not in fact provided revenue to the district and presently serves no purpose for the district.

G. General economic conditions, changed laws and regulations, and continuing development in the district's present service area since the rates and charges were last amended have increased substantially the district's costs of providing water and wastewater services, including the costs of human and capital resources, and have required the district to plan for and provide new water and wastewater facilities, all requiring increased revenue.

H. The district participated with San Benito County Water District and the City of Hollister in preparing an updated Urban Water Management Plan for the Hollister Area, the "Hollister Area Urban Water Management Plan 2000", dated July 1999. The District adopted the updated Plan by Resolution 465. An earlier UMWP was prepared by the City of Hollister and Sunnyslope in 1991.

I. The Board has received recommendations from the District Engineer, and from consulting engineers Walters Engineering and Kennedy/Jenks Consultants concerning water facilities and actions to provide the water needs identified by the Urban Water Management Plan. With the recommendation of the District Engineer, the District has been working with the City of Hollister and independently on water treatment plants to supply potable water needs. In October 2001, the District entered into a lease-purchase agreement with the City of Hollister for the joint acquisition of a water treatment facility. The district is presently considering the independent acquisition of another water treatment facility. The district is also planning for additional groundwater supply and additional storage facilities.

J. The District Engineer has also made recommendations concerning wastewater transport and treatment facilities needed to serve consumers of the district's wastewater services, including additional disposal ponds for treated wastewater, to maintain compliance with applicable laws and regulations and the lawful requirements of the Central Coast Regional Water Quality Control Board.

K. On the recommendation of the General Manager, based on information from the engineers, the Board reviewed and approved a list of Capital Improvement Projects dated June 2001 in connection with the preparation of the budget for fiscal year 2001/2002.

L. As part of its planning, the district engaged Parsons & Associates to review the district's finances and the financial needs identified based on the Urban Water Management Plan and the recommendations of the District Engineer and the consulting engineers. The Board received and accepted a report from Parsons & Associates at duly noticed Board meetings held on November 8, 2001 and December 6, 2001. The written report dated October 31, 2001, a transmittal letter dated November 29, 2001 from Parsons & Associates, a letter dated November 26, 2001 from Parsons & Associates, copies of which are on file in the district office, and the oral presentations of Joy Parsons at the Board's meetings on November 8 and December 6, 2001 have been considered carefully by the Board. Ms. Parsons has advised the district to provide for an annual adjustment of connection charges to accommodate increased construction costs.

M. Information presented to the Board after careful study by qualified experts shows that the district has a clear, present and immediate need to amend certain of its rates, fees and charges for water and wastewater services for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, and (4) obtaining funds for capital projects necessary to maintain service within existing service areas.

N. The district's financial needs require the provisions of this ordinance amending rates and monthly service fees to become effective immediately upon adoption pursuant to Water Code Section 31027.

O. The district's legal counsel advises, and the Board finds, that adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(8) and Section 15273 of the State CEQA Guidelines codified at 14 CCR §15273.

P. Monthly service fees or charges adopted by this Ordinance shall be imposed as a condition of service by the District to its customers. Monthly water quantity and sewer rates shall be imposed on the basis of the amount of water used or consumed by the customer. Any customer may avoid payment of the quantity rates and the service fees or charges by disconnecting from the facilities of the district. These rates, fees and charges are not imposed upon real property or upon persons as an incident of real property ownership.

Q. The connection charges adopted by this ordinance are imposed as a condition of extending or initiating service upon the request of a customer as a condition of entitlement to use water. District Legal Counsel advises that the courts have not yet provided sufficient authoritative guidance to determine definitively whether the connection charges adopted by this ordinance are "property related charges" within the

meaning of Article XIII D of the California Constitution. The Board therefore finds that it is prudent for the District to comply with the procedural requirements of Section 6 of Article XIII D before imposing the connection charges adopted by this ordinance.

R. The rates, fees and charges adopted by this ordinance will not exceed the estimated reasonable costs of providing the services for which the rates, fees or charges are imposed. Connection charges imposed by this ordinance will not exceed the proportional cost of the service attributable to the customers on whom the charges are imposed.

S. The rates, fees and charges adopted by this ordinance have not been calculated nor developed on the basis of any parcel map, including an assessor's parcel map.

T. No written requests are on file with the district for mailed notice of meetings on new or increased fees or service charges pursuant to Government Code Section 66016.

Section 3. Purpose Of Ordinance. This ordinance amends Sections 3.40.090, 3.40.150 (Table 3.40.150), 4.32.160, and 4.36.060 (Table 4.36.060), and repeals Section 4.32.190 of the Sunnyslope County Water District Code.

Section 4. Effect Of Repeal On Past Actions And Obligations. This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance, does not waive any fee or penalty due and unpaid on the effective date of this ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance.

Section 5. Water Rate Schedule Amended. Section 3.40.150 of the District Code is amended by amending Table 3.40.150 to read in full as set forth in Exhibit "A" to this ordinance, incorporated by this reference.

Section 6. Water Connection Charge Amended. Section 3.40.090 of the District Code is amended to read in full as follows:

"A connection charge for the right of service in existing and proposed and pending water supply, storage, transmission and distribution facilities of the district shall be payable to the district for all water connections within the boundary of the district. The charge shall be within the range of \$1,225 to \$2,145 per family unit, with \$1,225 being the charge upon the effective date of this Section. The imposition of a connection charge on any school district, county office of education, community college district, the California State University, the University of California, or state agency shall be subject to the requirements set forth in Section 54999.3 of the California Government Code."

Section 7. Sewer Rate Schedule Amended. Section 4.36.060 of the District Code is amended by amending Table 4.36.060 to read in full as set forth in Exhibit "B" to this ordinance, incorporated by this reference.

Section 8. Sewer Connection Charge Amended. Section 4.32.160 of the District Code is amended to read in full as follows:

"Customers requesting or desiring sewer service from the district for residential, commercial, industrial or other use, whether by any sanitary sewerage system or proposed system of the district, or any sanitary sewerage system of other persons within such area which may connect with or be proposed to be connected to any sanitary sewerage system or proposed system of the district shall pay a connection charge based on quantity of effluent, within the ranges set forth in Table 4.32.160. One thousand two hundred forty dollars shall be paid to Ridgemark Corporation as and for reimbursement to Ridgemark Corporation for oversizing its facilities to accommodate connections outside of the Ridgemark Development Project. The balance of the connection charge, ten dollars of which shall represent an inspection fee, shall be retained by the district for the cost of facilities to provide the service requested. The lowest charges within the ranges set forth in Table 4.32.160 shall be the charge upon the effective date of this Section.

Table 4.32.160

SEWER CONNECTION CHARGES

<u>Customer Classification</u>	<u>Charge</u>
1. Single-family unit	\$1,907.00 - \$3,337.00
2. Multiple-family dwellings, duplexes, flats and apartments (auto courts, motels, trailer parks?)	\$1,744.00 - \$3,052.00/unit
3. Commercial houses, schools ¹ , churches	\$2,059.00 - \$3,603.00/unit
4. Industrial, business, laundries, laundrettes, restaurants, bars, theaters, service stations, garages, chemical plants	\$1,400 - \$2,450 plus \$2.37 - \$4.15/gallon/day projected use

(1) Note: Connection charges for schools and other governmental uses are subject to the requirements of Government Code § 54999.3

Section 9. Adjustment of Connection Charges. Connection charges shall not exceed the maximum amounts stated in Sections 6 and 8 and shown in Table 4.32.160. Each year, commencing on July 1, 2003, and continuing thereafter on each succeeding July 1, the connection charges adopted by Sections 6 and 8 of this ordinance shall be adjusted by an increment based on the change in the Engineering News Record Construction Cost Index for San Francisco over the prior year, using the index published for the first quarter of the calendar year, and rounded to the nearest \$25. The Board may, by resolution adopted before the effective date of any annual adjustment, determine that such adjustment shall not be effective for the next succeeding year, or that the adjustment shall be some other amount within the ranges set forth in Sections 6 and 8.

Section 10. Additional Connection Charge Repealed. Section 4.32.190 of the District Code is repealed.

Section 11. Requirements for Rates, Fees and Charges. The rates, fees and charges adopted by this ordinance shall not exceed the estimated reasonable costs of providing the services for which the rates, fees or charges are imposed. Revenues derived, respectively, from water and sewer connection charges shall not be used for any purpose other than for capital facilities to provide, respectively, water and sewer service. If the connection charges adopted by this ordinance create revenues in excess of actual cost, those revenues shall be used to reduce the connection charges creating the excess.

Section 12. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, or superseded by some other provision of law, such provisions shall be severed from and shall not affect the validity of the remaining provisions of this ordinance. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any other part thereof be unconstitutional or invalid, or superseded by some other provision of law. The parts of this ordinance which are not unconstitutional, invalid, or superseded shall remain in full force and effect and shall be enforced according to their terms.

Section 13. Interpretation. Words and Phrases used in this ordinance shall be read conjunctively with and shall have the same meaning as in prior district ordinances and the district Code, unless specifically changed by this ordinance or unless the context requires some other construction. If there is any inconsistency between this ordinance and prior provisions, this ordinance shall control.

Section 14. Effective Date. Excepting Sections 6, 8, 9 and 11, this ordinance shall take effect immediately upon adoption. Sections 6, 8 and 10 shall take effect on the later of (a) 60 days following adoption, or (b) after the district conducts a public hearing upon the proposed connection charges not less than 45 days after mailing notice of the proposed charge to the record owners of each identified parcel upon which a connection charge may be imposed. At the public hearing, the district shall consider all protests against the proposed connection charges.

The district shall not impose any connection charge as to which a majority of owners of the identified parcels present written protests.

Section 15. Publication and Posting. Within 15 days after adoption, the district shall publish, in a newspaper published in San Benito County and circulated within the district, a summary of this ordinance with the names of those directors voting for and against adoption, and shall post in the district office a certified copy of the full text of this ordinance as adopted along with the names of those directors voting for and against adoption.

Section 16. Notice of and Public Hearing on Connection Charges. The Secretary is authorized and directed to mail notice of the connection charges proposed for adoption by Sections 6 and 8 of this ordinance to the record owners of each identified parcel upon which a connection charge may be imposed. The district shall hold a public hearing not less than 45 days and not more than 60 days after mailing the notice, to consider all protests against the proposed connection charges.

Section 17. Notice of Exemption Notice of Determination. The Secretary is authorized and directed to give due notice of exemption of this ordinance from the provisions of CEQA, pursuant to Title 14, California Code of Regulations, section 15062.

On motion of Director R. Anderson, seconded by Director D. Anderson, the foregoing Ordinance is enacted and shall take effect on December 21, 2001 by the following roll call of the Board:

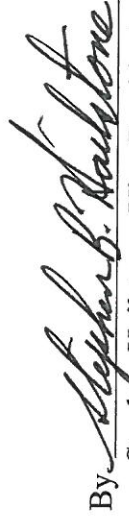
AYES: Hailstone, R. Anderson, D. Anderson, & Rosskamp

NAYS: None

ABSENT: Nelson

ATTEST:


Bryan M. Yamaoka, Secretary

By 
Stephen Hailstone, Vice-President

CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was adopted and approved by the Board of Directors at their Special Meeting on December 20, 2001.



Bryan M. Yamaoka, Secretary

EXHIBIT A

Table 3.40.150

**RATE SCHEDULE:
REGULAR DOMESTIC SERVICE AND INTERRUPTIBLE SERVICE**

Monthly Service Charges

Inside District, Improvement Dist. No. 1 and S.B.C.W.D.* Zone 3	Inside Imp. District No. 1 and Outside S.B.C.W.D. Zone 3	Outside District
\$4.60	\$4.95	\$5.50

**Monthly Quantity Rates
Regular Domestic Service and Interruptible Service**

	Inside District, Imp. Dist. #1 and S.B.C.W.D. Zone 3	Inside Imp. Dist. #1 and Outside S.B.C.W.D. Zone 3	Outside District
1 st 2000 cu. ft. per 100 cu. ft./unit	\$0.73	\$0.80	\$0.90
Next 4000 cu. ft. per 100 cu. ft./unit	1.02	1.09	1.19
Over 6000 cu. ft. per 100 cu. ft./unit	2.47	2.54	2.64

**Monthly Meter Maintenance and Replacement
Charges for All Classes of Service**

<u>Size of Meter</u>	<u>Charge per Meter</u>
5/8" x 3/4"	\$1.40
1"	2.18
1 1/2"	2.53
2"	3.34
3"	13.57
4"	19.78
6"	30.51
8"	48.40

* San Benito County Water District

EXHIBIT B

Table 4.36.060

SEWER SERVICE CHARGES

Facility Serviced

**Charge
per Month**

- | | |
|---|-------------------------------|
| 1. Single-family dwelling | \$17.60 |
| 2. Multiple-family dwellings, duplexes, flats and apartments | 13.40/unit |
| 3. Cottages, auto courts, motels, trailer parks, laundries, laundrettes and similar uses | 1.14/HCF of metered water use |
| 4. Commercial and industrial (including office buildings, businesses, restaurants, bars, theaters, hotels, rooming houses, schools, churches, fabrication, processing, service stations, garages, chemical plants and similar uses) | 1.50/HCF of metered water use |

Notice of Exemption

Appendix E

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

County Clerk
County of San Benito

From: (Public Agency) Sunnyslope Co. Wtr. Dist.
3416 Airline Hwy
Hollister CA 95023 ^(Address) SAN BENITO COUNTY

JAN 15 2002

JOHN R. HODGES, CLERK
BY: Sylvia Tripp
DEPUTY CLERK

Project Title: Water/Wastewater Rate and Connection Fee Increase

Project Location - Specific: Sunnyslope County Water District-Water Service Boundary

Project Location - City: Hollister Project Location - County: San Benito

Description of Nature, Purpose, and Beneficiaries of Project:

Increase of Water and Wastewater Rates and Connection Fees to update Rate
Structure to maintain and improve water and wastewater systems

Name of Public Agency Approving Project: Sunnyslope County Water District

Name of Person or Agency Carrying Out Project: Sunnyslope County Water District

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number:
- Statutory Exemptions. State code number: Section 15273 State CEQA 14 CCR 15273

Reasons why project is exempt: (1) Meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financila reserve needs and requirments, and (4) obtaining funds for Capital projects necessary to maintain service withing existing service areas.

Lead Agency
Contact Person: Bryan Yamaoka Area Code/Telephone/Extension: (831) 637-4670

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Bryan Yamaoka Date: 1/14/02 Title: General Manager

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR:

Revised October 1989