

SUNNYSLOPE COUNTY WATER DISTRICT

ORDINANCE NO. 66

AN ORDINANCE OF SUNNYSLOPE COUNTY WATER DISTRICT (AMENDING DISTRICT CODE §§ 3.40.090 and 4.32.160; INCREASING WATER AND SEWER CAPACITY CHARGES FOR NEW AND INCREASED WATER AND SEWER CONNECTIONS)

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 50021, 50022.4, 50022.7, 66013, 66016 and 66017 of the Government Code.

Section 2. Findings.

A. This ordinance is considered for action by the Board of Directors at a regularly scheduled and noticed meeting. A summary of the ordinance prepared by the district's General Manager in consultation with the district's legal counsel and a notice of the hearing to adopt the ordinance was published, and a certified copy of the full text of the proposed ordinance was posted in the office of the board at least 5 days prior to the Board meeting of April 12, 2007. 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, fees and charges are levied, and the revenue sources anticipated to provide the service, including General Fund revenues. Certificates of publication are on file with the district.

B. A water connection charge that includes provision for capacity in existing and planned facilities is established by Section 3.40.090 of the District Code. This charge was amended by Ordinance 65 on March 8, 2007, to be effective immediately for a period of 30 days, and to be effective permanently on the sixty-first day following adoption of Ordinance 65.

C. A sewer connection charge that includes provision for capacity in existing and planned facilities is established by Section 4.32.160 and table 4.32.160 of the District Code. This charge was amended by Ordinance 65 on March 8, 2007, to be effective immediately for a period of 30 days, and to be effective permanently on the sixty-first day following adoption of Ordinance 65.

D. Section 66017 of the Government Code provides authority for adoption of capacity charges as an urgency measure, effective for an initial period of thirty days and renewable for one additional period of thirty days, before taking effect permanently sixty days following initial adoption.

E. The General Manager, the District Engineer, the District's financial consultant and the District's consulting engineers have recommended certain changes to the District's water and sewer connection charges, based on changes to the District's costs to install, maintain and replace the facilities to provide water and sewer service. The District's Legal Counsel recommends characterizing charges for capacity in existing and planned facilities as capacity charges.

F. The amended connection charges do not involve rates or delivery charges or fixed monthly charges for water delivery or treatment or wastewater collection or treatment. These fees and charges are imposed as a condition of providing water and sewer services through new connections.

G. The District Engineer and the District's consulting engineers RMC have recommended certain water and wastewater capital improvement projects to serve the District's present service area, to maintain compliance with applicable laws and regulations and the lawful requirements of the Central Coast Regional Water Quality Control Board. The District's

financial consultants Bartle Wells Associates have analyzed the estimated costs of the proposed projects and the revenues needed to finance the projects and have recommended that the water connection/capacity charge be amended by increasing the charge to \$10,692 per 5/8" meter equivalent, and that the sewer connection/capacity charge be amended by increasing the charge to \$16,560 per single-family residential equivalent, adjusted annually thereafter by reference to the ENR index. The consultants and the General Manager have advised that there is an immediate and urgent need to increase the charges to provide funds for facilities to protect the health, welfare and safety of the persons served by the District. The Board finds that there is an urgent need for an immediate, temporary change in capacity charges pursuant to Section 66017 of the Government Code, as well as a long-term need for changed capacity charges as recommended by the consultants.

H. The amended water and sewer connection/capacity charges are for the purpose of obtaining funds for meeting financial reserve needs and requirements and for capital projects necessary to maintain service within existing service areas. The information presented to the Board after careful study by qualified experts shows that the District has a clear, present and immediate need to amend its water and wastewater connection charges for such purpose.

I. 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.

J. Fees or charges adopted by this Ordinance are not imposed upon real property or upon persons as an incident of real property ownership.

K. The capacity charges adopted by this ordinance will not exceed the estimated reasonable costs of providing the services for which the fees or charges are imposed.

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

M. The capacity charges adopted by this ordinance will be imposed within the District's existing service area as shown on the diagram on file in the District office.

N. The district's financial needs require the provisions of this ordinance to become effective immediately upon adoption pursuant to Water Code Section 31027 and Government Code Section 66017.

O. 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 and 4.32.160 of the Sunnyslope County Water District Code ("District Code").

Section 4. Effect Of Repeal or Amendment 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 Connection Charge Amended. Section 3.40.090 of the District Code is amended to read in full as follows:

"Right-of-service: Capacity Charge.

"A connection-capacity 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 new water connections and all water connections increased in capacity within the boundary of the district. The capacity charge shall be within the range of one thousand two hundred twenty-five dollars to two thousand one hundred forty-five dollars per family unit, with one thousand two hundred twenty-five dollars being the charge upon the effective date of this section ten thousand six hundred nine-two dollars (\$10,692) per 5/8" meter equivalent. The number of equivalents for water connections with meters larger than 5/8" shall be determined by

the district engineer on the basis of the flow capacity of the larger meter divided by the flow capacity of a 5/8" meter, rounded to the nearest one decimal place (0.1). The capacity charge for increased capacity shall be payable only on the basis of the amount of increased capacity. The capacity charge shall be adjusted as provided in Section 3.40.095 of the District Code. The term "connection charge" as used in Section 3.40.095 shall have the same meaning as "capacity charge" as used in this Section 3.40.090. The imposition of a ~~connection~~ capacity 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. If connection is not made to the District's water system within one year from the date a capacity charge is paid after the effective date of this provision, the difference between the amount paid and the amount of the capacity charge in effect at the time of the connection shall be paid to the District. No additional payment shall be required for connections for which connection charges are paid before the effective date of this provision.

Section 6. Sewer Connection Charge Amended. Section 4.32.160 of the District Code is amended to read in full as follows:

"~~Connection~~ charge: Capacity Charge.

"Customers requesting or desiring sewer service from the district for service outside the boundaries of the Ridgemark Project, 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~~ capacity charge. The capacity charge shall be fifteen thousand six hundred fifty dollars (\$15,650) per residence. "Residence" as used in this Section means and refers to a place of residence for a single family. Multiple-family dwellings shall have the same number of residences that the facilities therein provide for single-family residents, including trailer courts, hotels and motels. The number of residences for commercial, industrial, church, school, public and other nonresidential units shall be determined by the district engineer on the basis of dividing the average water consumption for a single family residence in the district. ~~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 shall be retained by the district for the cost of facilities to provide the service requested. Customers shall also pay an additional inspection fee of ten dollars for each new service connection. The lowest charges within the ranges set forth in Table 4.32.169 shall be the charge upon the effective date of this Section, March 15, 2002. Customers requesting or desiring sewer service inside the boundaries of the Ridgemark Project shall pay a ~~connection~~ capacity charge as provided in this Section within the ranges set forth in Table 4.32.160, less one thousand two hundred forty dollars. The capacity charge shall be adjusted as provided in Section 4.32.165 of the District Code. The term "connection charge" as used in Sections 4.32.165, 4.32.170 and 4.32.180 shall have the same meaning as "capacity charge" as used in this Section 4.32.160. If connection is not made to the District's sewer system within one year from the date a capacity charge is paid after the effective date of this provision, the difference between the amount paid and the amount of the capacity charge in effect at the time of the connection shall be paid to the District. No additional payment shall be required for connections for which connection charges are paid before the effective date of this provision.~~

Section 7. Requirements for Fees and Charges. The fees and charges adopted by this ordinance shall not exceed the estimated reasonable costs of providing the services for which the fees or charges are imposed.

Section 8. 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 9. 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 10. Effective Date. This ordinance shall take effect immediately on adoption on an interim, urgency basis and shall remain in effect for thirty days following adoption of this ordinance.

Section 11. Publication and Posting. Within 10 days after adoption, the district shall publish, in a newspaper published in San Benito County and circulated within the district, either a summary or the full text of this ordinance, 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 12. 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 Nelson, seconded by Director Hailstone, the foregoing Ordinance is enacted and shall take effect on April 12, 2007, by the following roll call of the Board:

AYES: Directors Anderson, Hailstone, and Nelson

NAYS: None

ABSENT: Director Johnson and Keck

ATTEST:


Bryan M. Yamaoka, Secretary

By 
Dawn Anderson, President

CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was adopted and approved by the Board of Directors at their regular meeting on April 12, 2007.


Bryan M. Yamaoka, Secretary