

SUNNYSLOPE COUNTY WATER DISTRICT

ORDINANCE NO. 74

AN ORDINANCE OF SUNNYSLOPE COUNTY WATER DISTRICT IMPOSING RATES, FEES, AND CHARGES FOR WASTEWATER SERVICES

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

Findings. The Sunnyslope County Water District (SSCWD or District) Board of Directors determines that each fact referenced in this section is true and correct.

- A. This Ordinance is enacted pursuant to Sections 30000 and following of the California Water Code, Sections 50022.4, 50022.7, and 66016 of the California Government Code, and the California Constitution.
- B. This Ordinance amends Section 4.36.060 and Table 4.36.060 of the Sunnyslope County Water District Code. Proceeds of the charge imposed by this Ordinance may only be used to fund District wastewater operations and maintenance activities, including capital expenditures to ensure wastewater collection and treatment facilities are operated according to District codes and State regulations.
- C. Adoption of this Ordinance is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to the CEQA Guidelines, Section 15273(a) CEQA does not apply to the establishment, modification, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are 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, (4) Obtaining funds for capital projects, necessary to maintain service within existing service area. Adoption of this Ordinance is under CEQA Guidelines Section 15378 as it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.
- D. This Ordinance is considered for action by the Board of Directors (Board) at a special and noticed meeting on August 6, 2013.
- E. The Ordinance prepared by the District’s General Manager, in consultation with the District’s legal counsel, was posted in the District Office at least five days prior to the Special Board meeting of August 6, 2013.
- F. 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.
- G. As required by Article XIII D, Section 6 of the California Constitution, the District mailed a Notice of Public Hearing on the Proposed Wastewater Rates, dated June 14, 2013, along with the proposed new rate schedule, to each property owner within the District’s wastewater service area and each customer receiving wastewater service from the District. That notice included: (i) a rate table setting forth the amount of the proposed sewer rates, (ii) the reasons for the sewer rate increase, (iii) the date, time, and location of the Public Hearing and (iv) information about how to submit a written protest against the proposed water rates. A public hearing was thereafter held not less

than 45 days after mailing the notice at which time the District Board received, heard, and considered protests to the proposed new rate schedule and rate increases.

- H. The District accepted written protests against the wastewater rates increase pursuant to the procedures established by the Board in its Resolution No. 527.
- I. Rates, fees, and charges for wastewater service were last adjusted by Ordinance 64 adopted by the Board of Directors on March 7, 2007.
- J. This Ordinance provides for scheduled rate increases for monthly wastewater service charges averaging 19% effective December 21, 2013 and 19% effective December 21, 2014.
- K. The District has received recommendations from its financial consultant, Raffelis Financial Consultants (Consultant), that certain rate amendments are necessary and appropriate to meet the District's revenue requirements to provide funds for wastewater service, to meet the District's payment and reserve obligations for the State Revolving Fund repayment schedule, and obligations under the District's CSCDA Series 2002A Revenue Bond pooled financing. Specifically, the Consultant recommends scheduled wastewater rate increase resulting in revenue increases to the District of 19% per year for two years (Fiscal Year 2014 and Fiscal Year 2015).
- L. The proposed wastewater rates are supported by a Technical Memorandum dated July 3, 2013, prepared by the District's Consultant ("Technical Memorandum"), which has been reviewed by the Board and is available for public inspection in the Office of the District and on the District's website.
- M. The amended rates, fees and charges for wastewater services are 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, (4) replacement and repair of wastewater system facilities to maintain service within existing service areas, and (5) meeting capital project costs associated with the Ridgemark Wastewater Treatment Plant.
- N. 1,287 parcels are subject to the proposed wastewater rates. A majority protest against the wastewater rates would therefore require 644 valid written protests. Based on the number of protests received, a majority protest against the wastewater rates does not exist. The proposed wastewater rates are a property-related charge for wastewater service, as that term is defined by law, and no election is required pursuant to Article XIII D, § 6(c) of the California Constitution. The District's compliance with Proposition 218 is complete.
- O. Although proceeds from the wastewater rates may fund capital projects that might physically affect the environment, such capital projects will be subject to CEQA review on a project-by-project basis. Accordingly, CEQA review of the use of the proceeds of the wastewater rates would be unduly speculative at this time and therefore this action is not a "project" as the term is defined in Public Resources Code Section 21065 and 15 CCR 15002(d), and CEQA Guidelines Sections 15378 and 15061(b)(3).

NOW THEREFORE be it ordained as follows:

- Section 1. The foregoing findings are adopted by the Board as though set forth fully herein.
- Section 2. Wastewater Rates and Charges Amended. Section 4.36.060 of the District Code is amended such that Table 4.36.060 reads in full as follows:

Monthly Wastewater Rates and Charges

Customer Class	Current	Effective Date							
		12/2013	12/2014	12/2015	12/2016	12/2017	12/2018		
Base Charge									
Single-Family (SFR) ¹	\$67.74	\$80.62	\$95.93	\$95.93	\$95.93	\$95.93	\$95.93	\$95.93	\$95.93
Multiple-Family (MFR) ²	\$51.54	\$61.33	\$72.98	\$72.98	\$72.98	\$72.98	\$72.98	\$72.98	\$72.98
Flow Charge, per HCF³									
SFR, MFR	\$3.98	\$4.74	\$5.64	\$5.64	\$5.64	\$5.64	\$5.64	\$5.64	\$5.64
Trailer Parks, etc.	\$6.50	\$7.74	\$9.20	\$9.20	\$9.20	\$9.20	\$9.20	\$9.20	\$9.20
Commercial & Industrial	\$8.57	\$10.20	\$12.14	\$12.14	\$12.14	\$12.14	\$12.14	\$12.14	\$12.14

¹SFR = Single-Family Residence

²MFR = Multiple-Family Residence

³HCF = hundred cubic feet

Monthly wastewater bills for single-family (SFR) and multiple-family (MFR) dwellings include a base charge, plus a flow charge based on the three-year average metered water consumption (consumption factor) in HCF during the months of February and March, adjusted annually. When a customer's water usage history is for less than three years, the February and March history available will be used, but shall not be less than a consumption factor of 8 HCF for a detached residence, or 4 HCF for an attached residence (condominium) until an actual three-year history of metered water consumption is available.

The monthly wastewater bills for all other customers (commercial, industrial, motels, trailer parks, etc.) are based on flow only, which is based on the metered water consumption in hundreds of cubic feet.

Single-family homes with granny units shall be considered one single-family dwelling and wastewater rates will be calculated using the single-family rates and charges.

Section 3. 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.

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. 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 that are not unconstitutional, invalid, or superseded shall remain in full force and effect and shall be enforced according to their terms.

Section 6. 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 7. Effective Date. This Ordinance shall take effect immediately on adoption.

Section 8. Judicial Review. Any judicial review of this Ordinance shall be by writ of mandate under Code of Civil Procedure Section 1085. Any action or proceeding seeking to attack, review, set aside, void or annul this Ordinance shall be commenced within 90 days after the adoption of this Ordinance.

Section 9. 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, 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 10. Notice of Exemption and 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 Johnson, seconded by Director Hill, the foregoing Ordinance is enacted and shall take effect on August 6, 2013, by the following roll call of the Board:

AYES:	Directors Clapham, Johnson, Hill, Meraz, and Villalon
NAYS:	None
ABSENT:	None

By: 
Dave Meraz, President

ATTEST:

Donald G. Ridenhour, Secretary

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 August 6, 2013.


Donald G. Ridenhour, Secretary