

## SUNNYSLOPE COUNTY WATER DISTRICT

### ORDINANCE NO. 63

AN ORDINANCE OF SUNNYSLOPE COUNTY WATER DISTRICT (ADDING DISTRICT CODE CHAPTER 1.16 and §1.16.010; AMENDING §§ 2.12.030, 3.40.020, 3.40.050; ADDING §3.40.095; AMENDING §§ 3.40.230, 3.40.260, 3.40.280; ADDING §3.40.285; AMENDING §3.40.340; ADDING A NEW ARTICLE V TO CHAPTER 3.40, §§ 3.40.360 THROUGH 3.40.480; AND ADDING §4.32.165 ) (CHANGING FEES AND CHARGES FOR ADMINISTRATION OF WATER AND SEWER SERVICES; ADDING ESCALATION PROVISIONS FOR WATER AND WASTEWATER CONNECTION CHARGES; AND ADOPTING PROVISIONS FOR TERMINATION OF WATER SERVICE)

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 Article 4, Chapter 6, Part 3, Division 5 of the Health and Safety Code and Sections 50021, 50022.4, 50022.7, 66013 and 66016 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 was published and a certified copy of the full text of the proposed ordinance was posted in the office of the board at least five days prior to the Board meeting of January 11, 2006. 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. Certificates of publication are on file with the district.
- B. Miscellaneous fees and charges for water service are established by Chapter 3.40 of the District Code. Miscellaneous fees and charges for sewer service are established by Article 4.36 of the District Code. The miscellaneous fees and charges amended by this ordinance have not been amended since 1989.
- C. A connection charge for sewer service is established by Section 4.32.160 of the District Code. This charge was last amended by Ordinance 61 in May 2002.
- D. The General Manager, the District's financial consultant and a committee of the Board have recommended certain changes to the district's miscellaneous fees and charges for water and sewer service, based on changes to the district's administrative costs for providing service.
- E. The amended miscellaneous fees and charges are for the purpose of meeting administrative costs and 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 administrative services requested or required by the District's customers.
- F. Uncodified Section 9 of the District's Ordinance No. 60, adopted in December 2001, provides for escalation of water and wastewater connection charges. The General Manager and District Counsel recommend codifying and amending the escalation provisions in light of subsequent court decisions interpreting Proposition 218.

G. Sections 5470 and following of the Health and Safety Code authorize an entity to approve by two-thirds vote of its legislative body an ordinance to fix rates, charges and fees in connection with the entity's sanitation or sewerage system, and to make such charges a lien on the property to which service is provided, after compliance with public notice and hearing procedures as provided therein.

H. 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.

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

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

K. The 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.

L. The impact fees 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.

M. The district's financial needs require the provisions of this ordinance to become effective immediately upon adoption pursuant to Water Code Section 31027, except as otherwise provided by Government Code Section 66017 for the amended adjustment to the water and wastewater connection charges.

N. 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 adds Chapter 1.16 and Section 1.16.010; amends Sections 2.12.030, 3.40.020, 3.40.050; adds Section 3.40.095; amends Sections 3.40.230, 3.40.260, 3.40.280; adds Section 3.40.285; amends Section 3.40.340 and adds a new Article to Chapter 3.40, Sections 3.40.360 through 3.40.480; and adds Section 4.32.165 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. Owner Responsibility (New). Chapter 1.16 and Section 1.16.010, "Owner Responsibility," are added to the District Code to read as follows:

"Sewer service and water service shall be furnished on the account of the owner, except as otherwise provided in Section 3.40.230 for residential water service. "

Section 6. Annexation Fees Amended. Section 2.12.030 of the District Code is amended as follows:

"Upon submission of a request for annexation to the district, the applicant shall pay the following fees prior to processing their request by the district:

"Administrative and engineering fees . . . . . \$500-00 1,000.00

"Local agency formation commission application fees . . . Fees in effect at time of application

"Legal fees for document preparation . . . . . \$250-00 500.00"

Section 7. Deposit Amended. Section 3.40.020 of the District Code is amended as follows:

“The amount of deposit required deposit will be equal to twice the amount of the estimated billing for the regular billing period for water service and twice the monthly sewer service charge to be collected on the water bill, but not less than ~~thirty-five dollars~~ ninety dollars (\$90) for water service and one hundred fifty dollars (\$150) for both water and sewer service.”

Section 8. Return of Deposit Amended. Section 3.40.050 of the District Code is amended by amending the first sentence of subsection A as follows:

“A guarantee deposit with the water department made by a consumer ~~who owns the premises for which the deposit was made, and~~ whose account has not been in arrears at any time during the first three years of the deposit, is returnable after the expiration of the first three years.

Section 9. Uncodified Section 9 of Ordinance 60 Amended and Adjustment of Water Connection Charge Added to District Code. Section 9 of Ordinance 60, insofar as it relates to water connection charges is amended and Section 3.40.095, “Adjustment of Connection Charges,” is added to the District Code to read as follows:

“The connection charge stated in section 3.40.090 shall be adjusted each year on July 1 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. Before the effective date of any annual adjustment, the Board shall hold an open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. After such meeting, the Board may by resolution approve the annual adjustment or determine that such adjustment shall not be effective for the next succeeding year.

Section 10. Consumer Liability for Water Used Amended. Section 3.40.230 of the District Code is amended as follows:

“The water charge begins when a service connection is installed and the meter is set, unless the water is ordered to be left shut off when the service connection is ordered to be installed. Before water is turned on by the district for any purpose whatever, the property owner must sign a form in which he guarantees payment of future water bills for the service required. The person signing the guarantee form or meter set form ~~will~~ may be held liable for water used until the district is notified in writing by the person signing the guarantee or meter set form to discontinue service or to transfer the account to another property owner. If the district furnishes water for residential use to a customer who is a tenant and the tenant fails to pay the account for such service, the district may require that service to subsequent tenants may be furnished on the account of the landlord or property owner.”

Section 11. Discontinuance for Nonpayment Amended. The first sentence of Section 3.40.260 of the District Code is amended as follows:

“Service may be discontinued to premises for which ~~non-payment of bills~~ a bill has not been paid on or before the fifteenth day following the date of post office cancellation.”

Section 12. Administrative Collection Fee Adopted. Section 3.40.275, “Administrative Collection Fee,” is adopted and added to the District Code to read as follows:

“An administrative collection fee of twenty dollars (\$20) will be charged to process each shutoff notice and door hanger delivery.”

Section 13. Reconnection Charge Amended. The first sentence of Section 3.40.280 of the District Code is amended as follows:

“A reconnection charge of ~~twenty-five~~ forty dollars (\$40) plus penalties will be made and collected prior to renewing service following a discontinuance.”

Section 14. Call-Out Fee Adopted. Section 3.40.285, “Call-Out Fee,” is added to the District Code to read as follows:

“A call-out fee of one hundred fifty dollars (\$150) will be charged to any customer for whom water service is turned on after normal business hours at the customer’s request.”

Section 15. Water Service, Delinquent Accounts – Penalty Amended. Section 3.40.340 of the District Code is amended as follows:

“Rates and charges which are not paid on or before the day of delinquency and for which there is a past-due balance of more than one dollar shall be subject to a basic, one-time penalty of ten percent of the amount of the delinquency plus a continuing penalty in the sum of ~~one and~~ one-half percent of the amount of the delinquency ~~or a minimum of one dollar~~ for each payment period the amount of the delinquency continues unpaid.”

Section 16. Returned Check Fee Adopted. Section 3.45, “Returned Check Fee,” is added to the District Code to read as follows:

“A returned check fee of twenty five dollars (\$25) will be charged to a customer for each check from that customer returned by the bank as uncollected for any reason.”

Section 17. Property Lien Filing Fee Adopted. Section 3.40.355, “Property Lien Filing Fee,” is added to the District Code to read as follows: A property lien filing fee of forty-five dollars (\$45) will be charged to a customer each time the District files a lien for money due on a delinquent account for that customer.

Section 18. Termination of Water Service – New Article Added. A new Article V is added to Chapter 3.40 of the District Code, as follows:

“3.40.360 Notice to Actual Users. Whenever the District provides water through a master meter or furnishes individually metered service in a multiunit residential structure, mobilehome park or farm labor camp where the owner, manager or farm labor employer is listed by the District as the customer of record of the service, the District shall make every good faith effort to inform the actual users of the services, when the account is in arrears, by means of a notice of proposed termination of water service.

(a) The notice required by this Section shall inform the actual users of the water service that:

- (1) water service will be terminated in ten (10) days; and
- (2) they have the right to become customers of the District without being required to pay the amount due on the delinquent account.

(b) The District is not required to make water service available to the actual users unless each actual user agrees to the terms and conditions of service and meets the District’s requirements for water service. However, if one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the District, or if there is a physical means, legally available to the District, of selectively terminating service to those actual users who have not met the District’s requirements for water service, the District shall make service available to the actual users who have met those requirements.

“3.40.370 Restrictions on Termination. The District shall not terminate residential water service for nonpayment in any of the following situations:

- a. During the pendency of an investigation by the District of a customer dispute or complaint;

- b. When a customer has been granted an extension of the period for payment of a bill;
- c. On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for water service within the normal payment period and is willing to enter into an amortization agreement with the District pursuant to section 3.40.380, with respect to all charges that the customer is unable to pay prior to delinquency;
- d. When a customer is complying with an amortization agreement, as provided for in section 3.40.390, if the customer keeps the account current as charges accrue in each subsequent billing period.

“3.40.380 Complaints: Requests for Investigation. Any residential customer who has initiated a complaint or requested an investigation within five (5) days of receiving the disputed bill, or who has, within thirteen (13) days of mailing of the notice required by Section 3.40.410, made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by the General Manager of the District.

“3.40.390 Amortization Agreements. The review of the complaint or request shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time not to exceed twelve (12) months. The District shall permit, upon request, any customer meeting the requirements of subsection c of section 3.40.390 to amortize, over a period not to exceed twelve (12) months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment. The delinquency charge of one-half of one percent on the delinquent balance shall continue to accrue on the amount being amortized.

“3.40.400 Appeals. Any customer whose complaint or request for an investigation pursuant to section 3.40.400 has resulted in an adverse determination by the District may appeal the determination to the Board.

“3.40.410 Notice of Termination. The District may not terminate residential water service on account of nonpayment of a delinquent account unless the District first gives notice of the delinquency and impending termination ("the notice").

“3.40.420 Manner of Delivery. The notice shall be mailed, postage prepaid, to the customer to whom the service is billed.

“3.40.430 Time of Mailing and Termination. The notice shall be mailed not earlier than forty-five (45) days from the date of mailing the District's bill for services. The date of proposed termination shall be at least fifteen (15) days after the date of mailing the notice.

“3.40.440 Contents of Notice. Every notice of termination of residential water service pursuant to this chapter shall include the following information:

- a. The name and address of the customer whose account is delinquent.
- b. The amount of the delinquency.
- c. The date by which payment or arrangements for payment is required in order to avoid termination.
- d. The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service

contains a description of that procedure, the notice is not required to contain that information.

e. The procedure by which the customer may request amortization of the unpaid charges.

f. The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state or federal sources, if applicable

g. The telephone number of a representative of the District who can provide additional information or institute arrangements for payment.

“3.40.450 Personal Notice. In addition to the written notice above required, the District shall make a reasonable, good faith effort to contact an adult person residing at the premises of the customer by telephone or in person at least 48 hours prior to any termination of water service. This notice shall include the items of information in subsections a, b, c, f, and g of section 3.40.440.

“3.40.460 Failure to Comply with Amortization Agreement. If a residential customer fails to comply with an amortization agreement, the District shall not terminate water service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but the notice does not entitle the customer to further investigation by the District.

“3.40.470 Wrongful Termination. No termination of residential water service may be effected without compliance with this Article V, and any water service wrongfully terminated shall be restored without charge for the restoration of service.

“3.40.480 The District shall not, by reason of delinquency in payment for water service, cause cessation of that service on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the District are not open to the public.”

Section 19. Uncodified Section 9 of Ordinance 60 Amended and Adjustment of Sewer Connection Charge Added to District Code. Section 9 of Ordinance 60, insofar as it relates to wastewater connection charges is amended and Section 4.32.165, “Adjustment of Connection Charges,” is added to the District Code to read as follows:

“The connection charge stated in section 4.32.160 shall be adjusted each year on July 1 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. Before the effective date of any annual adjustment, the Board shall hold an open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. After such meeting, the Board may by resolution approve the annual adjustment or determine that such adjustment shall not be effective for the next succeeding year.

Section 20. 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 21. 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 22. 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 23. Effective Date. This ordinance shall take effect immediately on adoption, except that the provisions of Sections 9 and 19 shall take effect on the 61<sup>st</sup> day following adoption.

Section 24. 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 25. 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 Johnson, seconded by Director Keck, the foregoing Ordinance is enacted and shall take effect on January 19, 2007, by the following roll call of the Board:

AYES: Directors Anderson, Hailstone, Nelson, Johnson, & Keck  
NAYS: None  
ABSENT: None

By Dawn V Anderson  
Dawn Anderson, President


ATTEST:  
Bryan M. Yamaoka  
Bryan M. Yamaoka, Secretary

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 January 18, 2007.

Bryan M. Yamaoka  
Bryan M. Yamaoka, Secretary

## NOTICE OF EXEMPTION

<p><b>To:</b> County Clerk County of San Benito 440 5th St., 2nd Floor, Room 206 Hollister, CA 95023-3843</p>	<p><b>From:</b> Sunnyslope County Water District 3570 Airline Highway Hollister, CA 95023</p>
<p><b>Project Title:</b> Ordinance #63 – An Ordinance of Sunnyslope County Water District Changing Fees and Charges for Administration of Water and Sewer Services; Adding Escalation Provisions for Water and Wastewater Connection Charges; and Adopting Provisions for Termination of Water Service</p>	
<p><b>Project Location:</b> Sunnyslope County Water District <span style="float: right;"><b>Assessor's Parcel No.</b></span></p>	
<p><b>Project Location – City:</b> City of Hollister</p>	<p><b>Project Location – County:</b> San Benito</p>
<p><b>Name of Public Agency Approving Project:</b> Sunnyslope County Water District</p>	
<p><b>Description of Project:</b> The amended miscellaneous fees and charges are for the purpose of meeting administrative costs and 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 administrative services requested or required by the District Customers.</p>	
<p><b>Name of Person or Agency Carrying Out Project:</b> Sunnyslope County Water District</p>	
<p><b>Exempt Status:</b> Statutory Exemptions Title 14, California Code of Regulations, Section 15062</p>	
<p><b>Reasons why project is exempt:</b> Public Resources Code Section 21080(b)(8) and Section 15273 of California CEQA Guidelines codified at 14 CCR § 15273</p>	
<p><b>Lead Agency Contact Person:</b> Bryan M. Yamaoka</p>	<p><b>Phone Number:</b> 831-637-4670</p>
<p><b>Signature:</b> </p>	<p><b>Date:</b> January 18, 2007 <b>Title:</b> General Manager</p>
<p><b>Signed by Lead Agency</b> <span style="float: right;"><b>Date Received for Filing at OPR:</b> n/a</span></p>	