

SUNNYSLOPE COUNTY WATER DISTRICT

ORDINANCE NO. 69

AN ORDINANCE OF SUNNYSLOPE COUNTY WATER DISTRICT (AMENDING DISTRICT CODE §§ 3.40.090 AND 3.40.095 REVISING WATER CAPACITY CHARGES FOR NEW AND INCREASED WATER CONNECTIONS; ADDING A FIRE SERVICE CAPACITY CHARGE FOR RESIDENTIAL AND COMMERCIAL BUILDINGS IN THE UNINCORPORATED AREA OF THE DISTRICT'S SERVICE AREA; AND REVISING THE METHOD OF CALCULATING CAPACITY CHARGES AND THE ADJUSTMENT OF CAPACITY CHARGES)

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 66000 and following of the California Government Code and, in particular, Government Code Sections 66013 and 66016.

Section 2. Findings.

A. This Ordinance was considered at first reading by the Board of Directors at its regularly scheduled and noticed meeting on December 10, 2009 and at a second reading for adoption by the Board at its regularly scheduled and noticed meeting on January 14, 2010.

B. Pursuant to Water Code Section 31027, 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 District Office at least five days prior to the Board meeting of December 10, 2009. Certificates of publication are on file with the District.

C. Pursuant to Government Code Section 66016, 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.

D. Pursuant to Government Code Section 66016, notice of the time and place of the meeting, including a general explanation of the matter to be considered and a statement that the data required by this action is available, was mailed at least 14 days prior to the meeting to interested parties who filed a written request with the District for mailed notice of the meeting on new or increased fees or service charges.

E. 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 last amended by Ordinance 65 on March 8, 2007 effective on the sixty first day following adoption of the ordinance, and by Ordinance 66 on April 12, 2007 effective immediately for a period of 30 days.

F. On December 10, 2009 the Board received, considered and accepted the "Water Capacity Fee Study" prepared by Bartle Wells Associates, the District's Financial Consultant.

G. 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 connection charges, including a new fire service capacity charge, based on changes to the District's costs to install, maintain and replace the facilities to provide water service. The District's Legal Counsel recommends characterizing charges for capacity in existing and planned facilities as capacity charges.

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

I. The District Manager and District Engineer advise and find that new growth should pay its fair share of water system capital investment and that existing customers should not subsidize growth. New growth will benefit from existing District facilities including water tanks, reservoirs, wells, water mains, District office and maintenance facilities and others. New growth will require additional facilities to provide capacity for growth. The recommended fee includes a “buy-in” to the existing system, plus a share of the capital projects necessary to accommodate growth. Regional water quality projects beyond 2012 are being refined and are not included in the proposed capacity fee (connections between now and 2012 will pay for these projects through rates). The current water capacity fee (approved in 2007) included future regional water quality projects. The “Total Cost Attrition” or “Equity (Buy-in) plus Incremental Cost” method was selected as the most appropriate for the District because the water system currently has some limited capacity for new growth, but also needs to construct additional facilities to accommodate projected growth.

J. The District Engineer and the District’s Consulting Engineers RMC have recommended certain water 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 capacity charge be amended by revising the charge to \$5,461 per 5/8” meter equivalent, automatically adjusted annually thereafter by reference to the ENR index (See Table attached here to as Exhibit A). The Consultants and the General Manager have advised that there is a need for changed capacity charges and the method of calculating those charges as recommended by the consultants.

K. The District Manager and the District Engineer also advise and find that the District is required to provide capacity dedicated for fire service connections and single family residential meters oversized for fire protection in the District’s service area. To pay for this cost, the District needs to adopt a Fire Service Capacity Charge to provide standby fire flow capacity in the water system to serve the fire service connections. The Fire Service Capacity Charge is set at 20% of the water charges based on American Water Works Association estimates in Manual M1 for similar sized water systems to the District. The fire service capacity charge covers system facilities needed to provide fire flow, including tanks, pipelines, pumps and other facilities.

L. The amended water capacity charges are for the purpose of obtaining funds for capital projects necessary to continue to provide adequate and reliable water service to all users within existing service areas and to meet fire protection requirements. The information presented to the Board after careful study by qualified experts shows that the District has a need to amend its water connection charges for such purposes.

M. The District Manager and the District Engineer also advise and find that the method for adjusting the connection/capacity charges should be revised to provide for an automatic annual adjustment, for five (5) years, based upon the change in the *Engineering News Record* Construction Cost Index for San Francisco over the prior year. After five years, there shall be no further increase without action by the Board.

N. 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.

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

P. 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.

Q. 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.

R. 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.

Section 3. Purpose of Ordinance. This Ordinance amends Section 3.40.90 and Section 3.40.095 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:

“Capacity Charge”

“A 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 water meter capacity charge shall be five thousand four hundred sixty one dollars (\$5,461) ten thousand six hundred ninety-two dollars per five-eighths (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 equivalent meter ratios based upon investment as stated in the American Water Works Association M1 Manual the flow capacity of a five-eighths inch meter, rounded to the nearest one-decimal place. The capacity charge for increased capacity shall be payable only on the basis of the amount of increased capacity. For dedicated fire service connections and single family residential meters oversized located in the District’s service area, there shall be an additional fire service capacity charge. The fire service capacity charge shall be 20% of the water capacity charge based on American Water Works Association estimates in Manual M1 for similar sized water systems to the District. For single family residential units with oversized meters for fireflow protection, the additional fireflow charge is three thousand one hundred sixty seven dollars (\$3,167) per unit. The capacity charge shall be automatically 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 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 connections 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. Adjustment of Capacity Charges Amended. Section 3.40.095 of the District Code is amended to read in full as follows:

“Adjustment of Connection Capacity Charges”

“~~The connection capacity charge stated in Section 3.40.090 shall be automatically adjusted each year on July 1st, for the next five (5) years, 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 twenty-five dollars. After five years, there shall be no further increase without action by the Board. 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 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 that 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 on the 61st day following adoption.

Section 11. Judicial Review. Any judicial review of this Ordinance shall be brought pursuant to Section 860 of the California Code of Civil Procedure and following. Any action or proceeding seeking to attack, review, set aside, void or annul this Ordinance shall be commenced within 120 days after the adoption of this Ordinance pursuant to Government Code Section 66022.

Section 12. Publication and Posting. Pursuant to Water Code Section 31027, 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 13. Notice of Exemption. 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 Anderson, seconded by Director Hailstone, the foregoing Ordinance Number 69 is enacted by the following roll call of the Board:

AYES: Keck, Hailstone, Anderson, & Meraz

NAYS: None

ABSTAIN: None

ABSENT: Nelson

By 
Doug Keck, President,

ATTEST:


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 14, 2010.


Bryan M. Yamaoka, Secretary

EXHIBIT A

Water Meter Size	AWWA Meter Ratio*	Water Meter Capacity Charges	Fire Service Capacity Charges
5/8"	1.0	\$5,461	
1"	1.4	7,645	
1 1/2"	1.8	9,830	
2" Residential Water & Fire		8,628	
2"	2.9	15,837	3,167
3"	11.0	60,071	12,014
4"	14.0	76,454	15,291
6"	21.0	114,681	22,936
8"	29.0	158,369	31,674

* Source AWWA Manual M1, page 67.