

ORDINANCE NO. 60

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
SAN BENITO COUNTY WATER DISTRICT REVISING/ ESTABLISHING
CUSTOMER SERVICE FEES**

BE IT ORDAINED by the Board of Directors of the San Benito County Water District (District) as follows:

SECTION 1: SERVICE FEES

The District shall charge the following service fees for the activities listed below:

- | | |
|--|-------------------------------------|
| a. Non-Sufficient Fund Fee
(per occurrence) | \$35 |
| b. Closing and Valve-Shut-off
(per occurrence) | \$89 |
| c. Re-Open Valve /New Customer Account
(per occurrence) | \$89 |
| d. Process Two-Party Transfer
Between Customers (Per Transfer) | \$59 |
| e. Fire Protection Fee (For Customer
without active Blue Valve Account) | \$150 |
| f. New Meter Facility Construction Fee: | |
| i.) New Meter | Cost of Meter |
| ii) Inspection Fee (Minimum of 1
Hour at O&M Manager Staff
Billing Rate) | 3% of Total
Construction
Cost |

SECTION 2: SERVICE FEE ADJUSTMENT:

Except for the new meter facility construction fee, the service fees established pursuant to this Ordinance are based upon the actual time incurred by District employees in providing the service, at hourly rates derived from staff billing rates in effect as of the date of this Ordinance, all as set forth in the Customer Service Fee Study provided to and approved by the Board of Directors of the District and incorporated into the record at the public hearing on this Ordinance.

- a. If staff billing rates of the employees providing the service are adjusted after the effective date of this Ordinance, District staff shall revise and update the Customer Service Fee Study and adjust the service fees accordingly.

SECTION 3: FINDINGS

The Board of Directors hereby adopts Proposition 218 and Proposition 26 findings, which are attached hereto as Exhibit A and incorporated herein by reference.

SECTION 4: PRIOR ORDINANCES REPEALED

All ordinance(s) and resolutions, or parts thereof, inconsistent herewith are hereby repealed.

SECTION 5: SEVERABILITY

In the event that any portion or provision of this ordinance shall be deemed by a court of law or other tribunal to be invalid or unconstitutional, such finding(s) of invalidity or unconstitutionality shall not affect the validity of the remaining provisions of this ordinance, which shall remain in full force and effect.

SECTION 6: EFFECTIVE DATE

This ordinance shall be in full force and effect as of 12:01 a.m. on the 30th day following its passage and shall be published once in a newspaper of general circulation, published and printed in the County of San Benito, State of California, together with the names of the members of the board of directors voting for and against same, prior to fifteen days from its passage.

The foregoing Ordinance was passed and adopted at the regular meeting of the Board of Directors of the San Benito County Water District held on the 28th day of February, 2018, by the following vote:

AYES: DIRECTORS: Tonascia, Flores, Tobias, Bettencourt and Huenemann

NOES: DIRECTORS: None

ABSENT: DIRECTORS: None

ABSTAIN: DIRECTORS: None

EXHIBIT A

The Board hereby finds that:

1. The service fees set forth in proposed Ordinance 60 are imposed in connection with a regulatory program and not as an incident of property ownership. Further, a property owner may avoid payment of such service fees by declining the service for which the fee is charged. Therefore, the service fees are not subject to the provisions of Proposition 218 (California Constitution Article XIII D).

2. For the same reasons as in 1.above, the service fee is not subject to Proposition 26 (California Constitution Article XIII C). Further, the service fees are not a “tax” under Proposition 26 in that: 1) the fees are imposed for a specific benefit conferred directly to the payor that is not provided to those not charged, and, 2) the fees are imposed for a specific government service provided directly to the payor that is not provided to those not charged.

3. The service fees do not exceed the reasonable costs to the District of conferring the benefit or of providing the service, as shown in the Customer Service Fee Study.

ATTEST:

/s/ Sara Singleton
Sara Singleton
Assistant Manager

/s/ Joe Tonascia
Joe Tonascia
President