

SOUTH COAST WATER DISTRICT

ORDINANCE NO. 198

AN ORDINANCE OF THE BOARD OF DIRECTORS OF SOUTH COAST WATER DISTRICT ESTABLISHING METHODS FOR THE COLLECTION OF RATES, FEES AND CHARGES FOR WATER SERVICES AND FACILITIES AND SEWER SERVICES AND FACILITIES FOR THE PERIOD NOVEMBER 1, 2004 TO JUNE 30, 2005; AND FOR THE PERIOD JULY 1, 2005 TO JUNE 30, 2006; AND COMMENCING JULY 1, 2006 AND THEREAFTER UNTIL REPEALED, AND SUBJECT TO AN ANNUAL REVIEW BY BOARD OF DIRECTORS

WHEREAS, the District has by the adoption of Ordinance No. 194 on November 15, 2001, Ordinance No. 196 on May 22, 2003, and Ordinance No. 197 on July 15, 2004, established rates, fees and charges applicable to water services and facilities and to sanitary sewer collection, treatment and disposal services and facilities; and

WHEREAS, collection of water and sewer service fees and charges via the property tax statements is cost effective for the District and provides the District with a predictable revenue stream; and

WHEREAS, the District has historically collected sanitary sewer fees and charges via the property tax statements for all customers; and for the Fiscal Year beginning July 1, 2004 the District desires that a portion of water service and sewer service fees and charges as established by District Ordinance No. 197 will be placed on the property tax statements in accordance with District Resolution No. 1-04/05.

WHEREAS, the authority to collect water and sewer fees and charges on the property tax statement is provided in State of California Health and Safety Code Section 5473 et seq.; and

WHEREAS, the Board of Directors has caused the preparation of a report proposing each parcel to be subject to water and sewer fees and charges and the amount of charges applicable thereto (the "Report" or "Charges Report"), for the period commencing July 1, 2004, which Report is incorporated herein by this reference; and

WHEREAS, pursuant to Health and Safety Code 5473.1, the District has notified all property owners of record as of the last equalized assessment roll of the proposed method of

collection via property tax statements commencing July 1, 2004, and District has published notice of the availability of the Report and a public hearing thereon in a newspaper of general circulation; and

WHEREAS, the District desires to continue collection of a portion of water and sewer usage fees and charges as established in District Ordinance 197, via bi-monthly billing, with the exception of delinquent fees and charges for water and sanitary services, which the District desires to have collected via the property tax statements commencing July 1, 2004; and

WHEREAS, the authority to collect water and sewer service delinquent charges on the property tax statement is provided in State of California Health and Safety Code Section 5473 et seq. and Water Code Section 31701; and

NOW, THEREFORE, the Board of Directors of South Coast Water District does hereby ORDAIN as follows:

Section 1. Water and Sewer Charges

Pursuant to Health and Safety Code 5471 and Water Code 31007, the water service and sanitary sewer service rates, fees and charges set forth by District ordinance or resolution, as the same may be amended from time to time, shall be collected for the provision of water services and facilities and wastewater sewage collection, treatment and disposal services and facilities by the District.

Section 2. Collection of Charges for Water and Sewer Services and Facilities

A portion of the fees, rates and charges for water and sewer services and facilities as set forth in Ordinance 197, as may be amended from time to time, shall be collected via bi-monthly billing, with the exception of amounts remaining delinquent and unpaid as of May 1 of any year, which delinquent amounts may be collected from the owners of property via the property tax statements in accordance with the procedures set forth in Water Code 31701 et seq., which procedures are incorporated herein by this reference. In the alternative, the procedure available for the collection of service fees and charges in accordance with the procedures set forth in Health and Safety Code 5473 et seq. may also be used for the collection of delinquent water and sewer bills.

Section 3. Collection of Charges for Water and Sewer Services and Facilities on the Property Tax Statements

A portion of the sewer rates, fees and charges for the South Coast Water District shall continue in accordance with Ordinance 197, and other subsequent ordinances and resolutions, to be collected via the property tax statements commencing July 1, 2004. A portion of water rates, fees and charges for the South Coast Water District shall be collected in accordance with Ordinance 197, and other subsequent ordinances and resolutions, via the property tax statements commencing July 1, 2004.

Section 4. Levy

The General Manager is hereby directed to take all necessary action to submit the rates, fees and charges as set forth herein to the Auditor and Tax Collector of Orange County for the period commencing July 1, 2004 in the amounts for each parcel as delineated in the Charges Report and/or as described in a Water Delinquencies Report to be prepared by the District in accordance with the procedures provided by law. The Charges Report shall generally contain the Water Service Charges (Section 3.01.2 of Ordinance 197 as the same may be amended from time to time), the Water Assets Equalization Charge (Section 3.01.3 of Ordinance 197 as the same may be amended from time to time), the Sewer Service Charge (Section 4.01.2 of Ordinance 197 as the same may be amended from time to time), and the Sewer Assets Equalization Charge or Credit (Section 4.01.3 of Ordinance 197 as the same may be amended from time to time); provided, however, that in the case of billings to homeowners associations and individual unit owners within homeowners associations, the General Manager may cause the preparation of the Charges Report to allow Water Service Charges collection via the bi-monthly billing in lieu of collection via the property tax statements. Further, in some cases, property tax statements for individual unit owners within homeowners associations may not be used to apply a credit for Water Asset Equalization Credits (Section 3.01.3 of Ordinance 197 as the same may be amended from time to time), and in that event, the General Manager may cause such credits to be applied to the bi-monthly billing for water services.

In the Alternative:

The General Manager is hereby directed to take all necessary action to submit the rates, fees and charges as set forth herein to the Auditor and Tax Collector of Orange County for the period commencing July 1, 2004 in the amounts for each parcel as delineated in the Charges Report and/or as described in a Water Delinquencies Report to be prepared by the District in accordance with the procedures provided by law. The Charges Report shall generally contain the Water Service Charges (Section 3.01.2 of Ordinance 197 as the same may be amended from time to time); the Sewer Service Charge (Section 4.01.2 of Ordinance 197 as the same may be amended from time to time), provided, however, that in the case of billings to homeowners associations and individual unit owners within homeowners associations, the General Manager may cause the preparation of the Charges Report to allow Water Service Charges collection via the bi-monthly billing in lieu of collection via the property tax statements.

Section 5. Collection

The Tax Collector of the County of Orange is hereby directed to levy, collect and remit to the District the rates, fees and charges reported hereunder at the time and in the manner required by law for the levying of taxes for county purposes.

Section 6. Annual Report and Hearing

On an annual basis, at the time of the change in the fiscal year, the General Manager is hereby directed to cause preparation of a Charges Report, which shall be for each year a written report of the parcels subject to water and sewer service charges and the amounts applicable to

each. The General Manager shall also cause to be prepared a Water and Sewer Delinquencies Report, which shall be a report of amounts due and unpaid as of the preceding May 1 and of the parcels to be subject to charges for said delinquent amounts and the charges applicable to each. These annual reports shall be approved by the Board of Directors and submitted to the County.

Pursuant to Health and Safety Code 5473.1, the General Manager shall cause notice of the filing of the annual reports to be published indicating the time and place for a hearings thereon before the District's Board of Directors.

Section 7. The provisions of this Ordinance shall apply to all owners of properties within the District, and no exception shall be provided for properties otherwise deemed exempt from the payment of taxes or assessments by provisions of the State Constitution or statute, including properties owned by certain other public agencies or tax exempt organizations, except as expressly provided herein below.

Section 8. Exemption

Notwithstanding the above, the following parcels may be exempted from collection via the property tax statements as stated herein.

- (a) Parcels which receive water or sewer service and are owned by the Government of the U.S., the State of California or by any political subdivision thereof or any entity of local government.
- (b) Parcels that receive water or sewer service for which the General Manager, in his discretion, finds that a hardship will be created for the property owner by collection of the water or sewer service charges via the property tax statement.

The General Manager shall establish and make available to interested applicants procedures for filing and consideration of applications for exemption from the method of collection stated herein.

The General Manager is further directed to review any such applications for exemption to determine whether or not the property owner's situation qualifies for exemption and allow or disallow such applications based upon those guidelines. The General Manager shall also establish reasonable procedures for the filing and timing of the appeals from his determination.

The Board of Directors shall hear all appeals from determinations by the General Manager to deny or qualify an application for exemption. Board shall act upon such recommendations and its decision as to such appeals shall be final.

Section 9. Any property owner may appeal the levy of the charges and if the charges have been paid to the Orange County Tax Collector, together with property taxes, the owner may submit a claim for rebate to the District, on the forms prescribed and provided by the District, within one hundred twenty (120) days after the annual property tax bill is mailed. All applications for rebate of the annual fees will be determined by the General Manager of the

District, who may grant a partial or full rebate or adjustment of the charge based on receiving satisfactory proof that the facilities have been otherwise provided as required by District Ordinance (in order to prevent any nuisance or danger to public health and safety) and/or that there is an actual inequity between the amount of the charge and the services provided by the District. Such inequities may include, but are not limited to:

- A. The parcel of property is not connected to the District's water system or sewer collection system;
- B. The use of the parcel is different from the use indicated by the charge;
- C. The parcel is owned by the Government of the United States, the State of California or any political subdivision thereof or any entity of local government;
- D. Nuisance conditions do not exist and have not existed on the property, which would be otherwise abated by the provision of services by the District.

Section 10. The Secretary of the District shall certify to the adoption of this Ordinance, and shall cause the same to be posted at three public places within the District as required by law. This Ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED by the affirmative vote of a majority of the Board of Directors of the South Coast Water District at a Special Meeting held July 15, 2004.



President

ATTEST:



Michael P. Hunter

Secretary

SOUTH COAST WATER DISTRICT
Serving the Public Since 1932

Certification

I, Michael P. Dunbar, Secretary of the SOUTH COAST WATER DISTRICT, Orange County, California, do hereby certify that the foregoing **Ordinance No. 198** was duly adopted at a Special Meeting of the Governing Board of said District, held on the 15th day of July, 2004 by the following vote of members of the Board:

AYES: Bishop, Runge, Moore, and Dietmeier

NOES: Street

ABSENT:

ABSTAIN:

and I further certify that Joel Bishop, as President, and Michael P. Dunbar, as Secretary, signed and approved said **Ordinance No. 198** on the 15th day of July, 2004.

Michael P. Dunbar

Michael P. Dunbar
Secretary of the Board
South Coast Water District

(District Seal)