

ORDINANCE 43

AN ORDINANCE OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
AMENDING THE DISTRICT'S RULES AND REGULATIONS TO ADJUST FEES
AND CHARGES

The Board of Directors adopts the following findings in support of this ordinance.

FINDINGS

1. The McKinleyville Community Services District has experienced substantial growth in residential and other construction during the last five years. This growth has led to an examination by the District of the adequacy of its facilities to serve current needs and anticipated growth.
2. The McKinleyville Community Services District Board of Directors has retained Winzler & Kelly, Consulting Engineers, to review the ability of the District's existing facilities to serve its customers, present and future. Winzler & Kelly found that the following improvements to the District's water system were required:
 - A. As documented in the District's reports titled "Recommended Wastewater and Water Systems Telemetry and Control Upgrades" (May 1991) and "Analysis of Optimum Peak Demand for Negotiation with HBMWD" (February 1991), replacement of the control and telemetry systems is necessary to accommodate the increased water supply demands generated by new growth.
 - B. The May 1991 report also documents the need to replace pumps/motors at the North Bank Pump Station to accommodate the increased water supply demands generated by new growth.
3. The MCSD Board of Directors on May 9, 1991 adopted a Five Year Water Capital Improvement Plan including the replacement of water system controls/telemetry and four of the Pump/Motors at the North Bank Pump Station.
4. The present rates required by the District's Rules and Regulations will be inadequate to fund the improvements specified in the adopted Five Year Water Capital Improvement Plan. Increases in Water connection fees, as herein described, are necessary to provide funds for the necessary improvements to the District's water system. The increased charges, hereinafter described, do not exceed the estimated reasonable cost of providing the required water facilities which will be paid for with funds resulting from such charges.

5. The California Legislature in 1988 added Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to authorize payment and collection of Capital facilities fees by public entities. This provision enables a capital facilities fee to be placed on users of public facilities in order to equitably apportion the cost of capital facilities construction or expansion required by all private users of facilities.
6. The Charges set forth in rule 5.04 of the MCSD Rules and Regulations have not been adjusted since 1974 and no longer generates sufficient fees to cover the actual cost of installing water service as documented in staff's summary of costs required to set water service.
7. The Rules and Regulations do not currently enable the District to charge for research services, variance applications or the cost of regularly providing notices of meetings whereas the provision of these services incurs staff and/or materials cost.
8. The rates and charges hereinafter described do not exceed the estimated reasonable cost of providing the services for which the rates and charges are imposed.
9. The average monthly consumption for a single family residential dwelling in 1990 was 1400 cubic feet or 10,740 gallons.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1: Paragraph 4 of Rule 5.04 of the District's Rules and Regulations shall be amended in total to read as follows:

"Where the applicant requests installation of a 1 1/2 inch or larger water meter or where unusual circumstances exist, the charge for installation of water service shall be equal to the estimated cost plus 10 percent of such service connection. The applicant shall deposit said amount with the District prior to installation, the District will track actual expenditures, the District will compute the difference between the deposit and the actual expenditure, the District will rebate the difference to the applicant where the deposit is greater than the actual expenditure and the applicant shall pay the difference to the District where the actual expenditure is greater than the deposit. The term "unusual circumstances", as used in this rule, shall include water mains deeper than 6 feet, slopes greater than 20 percent, service line lengths of more than 35 feet and closure of roadway due to traffic safety considerations.

The schedule for all other service connections is as follows:

5/8" x 3/4" Meter	\$575
3/4" Meter	\$600
1" Meter	\$625"

Section 2: Rule 5.11. shall be added to the District's Rules and Regulations to read as follows:

"Rule 5.11. CONNECTION CHARGES. A water connection charge of \$154 per equivalent single family residential dwelling shall be collected from each applicant requesting a new water service in addition to any processing fees or installation charges. The average monthly water consumption for a single family residential dwelling shall be assumed to be 10,742 gallons per month. The manager shall compute the actual connection charge for land uses other than single family residential dwellings by converting the average monthly water consumption of that land use into equivalent single family residential units and multiplying that number by \$154."

Section 3: Regulation 63 shall be added to the District's Rules and Regulations to read as follows:

"REGULATION 63 - VARIANCES

Rule 63.01. VARIANCES. The Board may, in specific cases, grant a variance from any provision of the standards incorporated into these Rules and Regulations whenever it finds: (A) that special circumstances exist in a particular case, and (B) that practical difficulties or unnecessary hardship would result from strict interpretation and enforcement of any standard, and (C) that the granting of such a variance would not tend to defeat the purposes of these Rules and Regulations. The Board may place conditions upon such variances.

Rule 63.02. VARIANCE APPLICATION. Any individual seeking a variance shall complete a variance application on the form provided by the District. A non-refundable fee of \$25 shall be paid by the applicant to the District for such application to be considered by the Board."

Section 4. REGULATION 64 shall be added to the District's Rules and Regulations to read as follows:

"REGULATION 64 - MISCELLANEOUS FEES

Rule 64.01. MEETING NOTICE FEE. The annual fee for reception of meeting notices shall be \$25.

Rule 64.02. RESEARCH FEES. Customers requesting information requiring staff research shall pay a research fee of \$20 per hour plus copying charges with a minimum fee of \$20."

Section 5. Paragraph two of Rule 30.07 shall be amended in whole to read as follows:

"Sewer service may be terminated by the District for default in performance of the customer's obligations as set forth herein. Prior to termination of service, except in emergency situations, the District shall comply with the notice and other requirements of Chapter 9.6 of Division 1, Title 6, of the California Government Code."

Section 6. Rule 10.01 shall be amended in whole to read as follows:

"Rule 10.01. TERMINATION OF SERVICE. Water service may be terminated by the District in compliance with the notice and other requirements of Chapter 9.6 of Division 1, Title 6, of the California Government Code.

A. Water service may be discontinued for any one of the following reasons:

1. Delinquency in payment of any water service rate or charge, except that residential service shall not be discontinued for nonpayment in any of the following situations:

- a. During the pendency of any 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 respecting water service.
- 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 service within the normal payment period and is willing to enter into an

amortization agreement with the District and requests permission 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 payment period.

2. The unauthorized taking of water or the taking of water in excess of the amount paid for.
3. Failure of the customer to maintain his facilities in suitable condition to prevent waste of water.
4. The existence of any unprotected cross connections on the customer's premises or the lack of adequate backflow protection at the service connection.
5. Any violation by the customer of any rules of the District governing water service.

B. The following process will be followed prior to discontinuance of residential service for nonpayment:

1. At least ten (10) days before any proposed discontinuance of residential water service for nonpayment of a delinquent account respecting such service, the District shall mail a notice, postage prepaid, to the customer to whom the service is billed of the proposed discontinuance. Such notice shall be given not earlier than nineteen (19) days from the date of mailing the District's bill for such services and the ten (10) day period shall not commence until five (5) days after the mailing of the notice. In addition to the ten day notice provided for in the preceding sentence, the District shall make a reasonable attempt to contact an adult person residing at the premises of the customer by telephone or personal contact at least forty-eight (48) hours prior to discontinuance of service, except that, whenever telephone or personal contact cannot be established, the District shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of discontinuance of service, at least forty-eight (48) hours prior to disconnection.
2. Every notice of discontinuance of service required by this section 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 discontinuance.
 - d. The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, unless the District's bill for services contains a description of that procedure.
 - e. The procedure by which the customer may request amortization of unpaid charges.
 - f. The procedure for the customer to obtain information on the availability of financial assistance.
 - g. The telephone number and name of a representative of the District who can provide additional information or institute arrangements for payment.
- C. The following process will be followed prior to a discontinuance other than a discontinuance of residential service for nonpayment: At least ten (10) days before discontinuing such a water service the District shall provide written notice which shall specify the reason for the proposed discontinuance and inform the customer of the procedure for and the availability of the opportunity to discuss the reason for the proposed discontinuance with the Manager, or the Manager's designee, who is empowered to review disputes and rectify errors and settle controversies pertaining to such proposed discontinuance of service. The name and phone number of the Manager, or the manager's designee, shall be included in any such notice of proposed discontinuance given to the customer.
- D. No water service shall be discontinued to any customer because of any delinquency in payment on any Saturday, Sunday, legal holiday or at any time during which the business office of the District is not open to the public.
- E. Every complaint or request for investigation by a residential customer that is made within five (5) days of receiving the disputed bill for water service and every request by a residential customer that is made within thirteen (13) days of the mailing of the notice required by section B of this rule for an

extension of the payment period of such a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment shall be reviewed by the Manager or the manager's designee. The review 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. Any customer whose complaint or request for an investigation has resulted in an adverse determination by the Manager or the Manager's designee may appeal the determination to the Board of Directors.

- F. The Manager or the Manager's designee is authorized to investigate complaints and to review disputes pertaining to water service disconnections and to rectify errors and settle controversies pertaining to such matters and disputes. The Manager or the Manager's designee is also authorized to amortize one unpaid balance at a time for any account over a reasonable period of time. The Manager may bring any such controversies to the Board of Directors for settlement by the Board.
- G. The Manager or the Manager's designee is authorized to discontinue service to a residential customer with an amortization agreement if the customer fails to keep the account current as charges accrue in each subsequent billing period. The District shall not discontinue such service without giving notice to the customer at least forty eight (48) hours prior to discontinuance of the conditions the customer is required to meet to avoid discontinuance. Such notice does not entitle said customer to further investigation by the District."

Section 7. This ordinance, when effective, shall be added to the rules and regulations of the District as a codified ordinance of the Board of Directors of the McKinleyville Community Services District.

Section 8. Notwithstanding any of the foregoing, charges sought to be imposed on any entity described in California Government Code Section 54999.3 shall be in accordance with the provisions of chapter 13.7 of Part 1, Division 2, Title 5 of the Government Code.

On the motion of Director ESTES and Seconded by Director SHEPHERD, the foregoing ordinance is duly adopted on second reading this 11TH day of JUNE, 1991 by the following vote:

AYES: ESTES, HARLING, SHEPHERD, RAMEY, WALUND

NOES: NONE

ABSENT: NONE

Joe Walund

Joe Walund, President
Board of Directors,
McKinleyville Community
Services District

ATTEST:

Barbara L. Bethel
Secretary, Board of Directors
MCS D

I, BARBARA L. BETHEL, Secretary to the Board of
Directors of the McKinleyville Community Services District,
hereby certify that the foregoing is a full, true, and
correct copy of the ordinance duly adopted this 11TH day
of JUNE, 1991.

WITNESS MY HAND and seal of the Board of Directors this 11TH
day of JUNE, 1991

Barbara L. Bethel
Secretary to the Board of
Directors of MCS D