

ORDINANCE NO. 2009-01

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE VOLCANO COMMUNITY SERVICES DISTRICT
REVISING THE WATER PARTICIPATION FEES

BE IT ORDAINED by the Board of Directors of the Volcano Community Services District as follows:

Section 1. Recitals.

The Board of Directors of the Volcano Community Services District ("District") hereby recites the following:

- a. The District commissioned a study to review the District's water participation fees to reflect the cost of providing water system capacity for new residential connections to the District's water system.
- b. The study commissioned by the District was recently prepared and completed by Jesse Shaw, PE ("Study").
- c. The Study evaluates the current value of the District water system assets in order to determine a capacity charge for new residential customers that bears a reasonable relationship to the equity which similarly situated existing customers have in such system.
- d. The Study materials are on file at the District office and have been available for public review and inspection for more than fourteen days prior to the public meeting on the proposed water participation fees.

- e. The Study and the proposed water participation fees were the subject of a public meeting of the Board of Directors of the District on October 6th, 2008, at which the board of Directors received comments.
- f. Notice of the proposed water participation fees were published in advance of the February 2, 2009 meeting.
- g. The Board of Directors has reviewed and considered the Study and the comments thereon and on the proposed water participation fees.

Section 2. Purpose and Findings.

The Board of Directors of the District hereby determines and finds as follows:

- a. The purpose of revising the District's water participation fees is to reflect the cost of providing capacity in the District water system to serve the anticipated demands of new residential customers and the new customers' proportionate share of the financial investment in the existing District water system. The proposed water participation fees are in the nature of "capacity charges" as that term is used in Government Code section 66013.
- b. The proposed water participation fees collected pursuant to this Ordinance reflect each new residential customer's proportionate share of the financial investment in the existing District water system and shall be used to finance water capital facilities benefiting such customers and the system, and will not be used for general revenue purposes.

- c. The water participation fees shall be deposited in the District's Capital Improvement Account, a separate fund to be used to pay costs of acquisition and construction of water capital facilities.

Section 3. Authority.

This Ordinance is adopted pursuant to, but not necessarily limited to, the authority found in government Code Sections 61100(a), 61115(a), 61060(b) and 66013, and other provisions of law.

Section 4. Water Participation Fees.

Water participation fees for each new residential dwelling unit connected to the District's water system shall be \$9,956.00 for ¾" meter which such meter size shall be required for each new residential connection. The water participation fees for other than residential dwelling units shall be determined based on the water meter size needed to serve the proposed development, the relative size of that needed meter to a ¾", meter, and other factors deemed appropriate by the District.

To account for escalating construction costs, the water participation fees shall be adjusted annually on February 1 of each year, beginning February 1, 2010, based on the change in the inflation index referenced below for the prior January 1 to December 31 period. The inflation factor used for this adjustment shall be that listed in the Engineering News-Record Construction Cost Index, 20-Cities Average, as this index historically represents a reasonable relationship to the cost increase experienced by the District due to inflation.

Section 5. Applicability of CEQA.

The Board of Directors of the District finds that the increase in the water participation fees is exempt from the California Environmental Quality Act pursuant to Public Resource Code Section 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors also finds that the adoption of the increased fees is exempt from review pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility that the adoption of the increased fees may have a significant effect on the environment. The District's Secretary is directed to prepare and file an appropriate Notice of Exemption.

Section 6. Inconsistency.

To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 7. Severability

If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, no other provision of this Ordinance shall be affected thereby.

Section 8. Publication.

The District Secretary is directed to publish a summary of this Ordinance once, with the names of the members voting for and against the Ordinance, in a newspaper published in the District within fifteen days after its adoption.

Section 9. Effective Date.

This Ordinance and the water participation fees set forth herein shall take effect upon adoption of this Ordinance.

Section 10. Judicial Action to Challenge Ordinance.

Any judicial action or proceeding at attack, review, set aside, void or annul this Ordinance and the water participation fees established herein shall be brought within 120 days after the effective date of this Ordinance.

INTRODUCED by the Board of Directors of the District at its regular meeting December 1, 2008.

PASSED AND ADOPTED By the Board of Directs of the Volcano Community Services District at a regular meeting thereof held on the 2nd day of February, 2009, by the following roll call vote:

AYES: 3
NOES: 0
ABSENT: 0
ABSTAIN: 0


VOLCANO COMMUNITY SERVICES DISTRICT

By: *Thomas M. Decker*
President, Board of Directors

ATTEST:
By: *Wanda A. Allen*
Board Secretary

CERTIFICATE

I hereby certify that that foregoing is a full, true and correct copy of Ordinance 2009-01, duly and regularly adopted by the Board of Directors of VOLCANO COMMUNITY SERVICES DISTRICT, County of Amador, on the 2nd day of February, 2009.



Secretary, Board of Directors
VOLCANO COMMUNITY SERVICES DISTRICT