

Ordinance No. 1999-01

**AN ORDINANCE AMENDING ORDINANCE NO. 2A  
BY PROVIDING FOR A CHANGE  
IN CHARGES AND FEES FOR WATER SERVICES**

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

The Board of Directors makes the following findings:

WHEREAS, the District is a public entity formed pursuant to California Government Code Section 61000, by Resolution No. 1190, which was adopted by the Amador County Board of Supervisors on May 31, 1966; and

WHEREAS, the District supplies water to the inhabitants of the District; and

WHEREAS, more than forty-five (45) days before a public hearing regarding consideration of changes in the charges for water supplied by the District, notice of said public hearing was mailed to the owner of record of each parcel of land within the District. Said Notice included the total amount of the increased charges throughout the District, the amount chargeable to each record owner's parcel, the reasons for the increase, and the date of the public hearing; and

WHEREAS, the Notice was also posted in several places within the District; and

WHEREAS, on May 4, 1999, a public hearing of the Board of Directors of the District was conducted for the purpose of considering whether increases in charges for the supply of water were necessary and, if so, the amount of such increases; and

WHEREAS, at said hearing, testimony of the public and other information relating to the cost to the District of producing water was presented, including the District's FINANCIAL STATEMENTS AND ACCOUNTANT'S AUDIT REPORT FOR YEAR ENDED JUNE 30, 1998; and

WHEREAS, the District's FINANCIAL STATEMENTS AND ACCOUNTANT'S AUDIT REPORT FOR YEAR ENDED JUNE 30, 1998 show that:

- (i) Operating and non-operating expenses exceeded the operating and non-operating income of the District for fiscal year 1997-98;
- (ii) There was a net loss for fiscal year 1997-98;
- (iii) Contributions should be made to the District's replacement fund from charges for the supply of water so that as the components of the water supply system wear out there will be adequate funds on hand to replace those components;
- (iv) The District's cost to supply water exceeds revenues collected for the supply of water; and

WHEREAS, the District is authorized to prescribe and collect charges for services pursuant to California Government Code Section 61621 and District Ordinance 2A, each of which pre-date the adoption of Propositions 62 and 218 (Article XIII A, XIII C and XIII D of the California Constitution); and

WHEREAS, the District's present and proposed charges for water supplied by the District do not exceed the reasonable cost of providing the supply of water;

WHEREAS, so long as the District's charges for water do not exceed the reasonable cost to supply water, the District's charges for the supply of water is a user charge or user fee and not a special tax within the meaning of Government Code Section 50078 or a new or increased assessment within the meaning of Government Code Section 54954.6; and

WHEREAS, the District's charges for the supply of water are not a general tax because the charges collected by the District for the supply of water are used solely to provide the supply of water and are not collected from members of the public who receive no benefit therefrom; and

WHEREAS, no parcel of land within the District receives a special benefit from the supply of water since all parcels benefit equally. Therefore, the District's charges for water services are not a special tax or a special assessment within the meaning of Government Code Section 53750 or Article XIIIID, Section 2 of the California Constitution; and

WHEREAS, the District's charges for the supply of water are a property related fee or charge within the meaning of Section XIIIID, Section 2(h) of the California Constitution; and

WHEREAS, a change in the District's charges for the supply of water are an increase in an existing property related fee or charge for water and are, therefore, exempt from any vote of property

owners pursuant to Article XIIIID, Section 6(c) of the California Constitution; and

WHEREAS, the charges for water services are not a new or increased general or special tax or a new or increased assessment within the meaning of Article XIIIIC of the California Constitution; and

WHEREAS, the charge imposed on each parcel of land does not exceed the proportional cost of supplying water to each parcel; and

WHEREAS, the District's charges for water reflect the state mandated water conservation requirements of Article X, Section 2 of the California Constitution and Section 350, et seq. of the California Water Code.

The Board of Directors of the District declare as follows:

a. District Ordinance 2A is hereby amended as follows:

- (i) The charges for the supply of water to each parcel within the District shall be in the amount(s) set forth in the attached "Water Rate Structure";
- (ii) The late charges, delinquency fees, penalties, interest and fines for late payments, non-payments and excessive use of water described in the DISTRICT'S RESOLUTION FOR THE CONSERVATION OF THE WATER SUPPLY OF THE DISTRICT (adopted on August 5, 1991 and amended from time to time thereafter) and the District's ORDINANCE IMPOSING AN ADDITIONAL CHARGE FOR WATER CONNECTION CONSUMING MORE THAN

15,000 GALLONS OF WATER PER MONTH are hereby amended to the amounts for late charges, delinquency fees, penalties, interest and fines set forth in the attached Schedule of Charges, Fees, Penalties and Fines.

(iii) Revenues derived from charges, fees, penalties, interest and fines for the supply of water shall be used solely to provide the supply of water.

Adopted this 4th day of May, 1999.

**AYES:** SARA GILLICK, JOE WOLFBRANDT, TERRY GRILLO

**NOES:** None

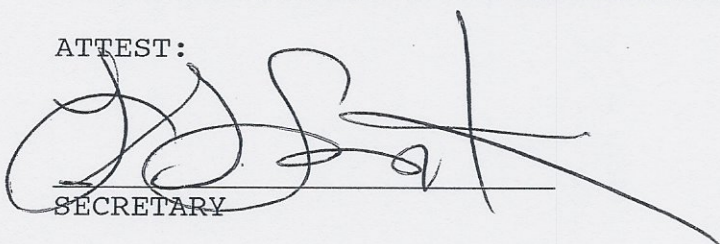
**ABSENT:** None

**ABSTAINED:** None

Signed and Approved this 6th day of May, 1999.

  
\_\_\_\_\_  
CHAIRMAN OF THE BOARD OF DIRECTORS  
VOLCANO COMMUNITY SERVICES DISTRICT

ATTEST:

  
\_\_\_\_\_  
SECRETARY