

## ORDINANCE 92

### AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE TWENTYNINE PALMS WATER DISTRICT ESTABLISHING RATES AND CHARGES FOR WATER SERVICE AND REAFFIRMING CERTAIN PRIOR RATES AND CHARGES AS ESTABLISHED BY DISTRICT RESOLUTION 03-16

**WHEREAS**, on August 20, 2003, the Board of Directors of the Twentynine Palms Water District (the "District") adopted Ordinance 87, setting forth rules and regulations for the provision of retail water service and providing among other things, that water service rates and charges and other water fees and charges may be set from time to time by the Board; and

**WHEREAS**, in accordance with Ordinance 87, on August 20, 2003, the Board of Directors of the District adopted Resolution 03-16 Setting Water Service Fees and Rates for Water Service; and

**WHEREAS**, the District's Financial Consultant, during consideration and preparation of the Fiscal Year 2009/2010 budget and in preparation of a three-year estimated budget, determined that at the current rates and projected levels of water sales and expenses, the District's annual operating and maintenance expenses, and the District's capital facilities program are expected to significantly exceed revenues; and

**WHEREAS**, due to the need to improve and expand services, and to provide the capital facilities necessary to operate the District in a financially prudent and safe manner, the District has experienced, and anticipates it will continue to experience, increases in its operating and maintenance costs and capital facilities costs; and

**WHEREAS**, the District must generate revenues in an amount sufficient to cover the District's ongoing costs of operations, maintenance, and capital facilities; and

**WHEREAS**, the Board of Directors directed the General Manager and Financial Consultant to review the schedule of water service rates and charges established pursuant to Resolution 03-16 and determine what increases to such schedule of rates and charges are necessary to generate revenues sufficient to cover the District's ongoing costs of operations, maintenance, and capital facilities; and

**WHEREAS**, the General Manager and Financial Consultant determined that increases to the schedule of rates for water service charges, including the rates for water pay station tokens (together, the water service charges and water pay station tokens are referred to herein as "Service Charges") are necessary for a three-year period to generate revenues sufficient to cover the District's ongoing costs of operations, maintenance, and capital facilities; and

**WHEREAS**, the schedule of proposed Service Charges is attached hereto as Exhibit A, and by this reference incorporated herein; and

**WHEREAS**, the General Manager and the Financial Consultant determined that other than the rates for the Service Charges, the rates for the District's fire service charges (the "Fire Service Charges") and the rates for all other fees and charges set forth in Resolution 03-16 (such other fees and charges, together with the Fire Service Charges are referred to herein as the "Other Fees and Charges") do not need to be increased at this time and should remain in full force and effect; and

**WHEREAS**, the revenues derived from the proposed Service Charges will not exceed the funds required to provide the water services and shall be used exclusively for the District's water system (the "System"); and

**WHEREAS**, the amount of the proposed Service Charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

**WHEREAS**, the proposed Service Charges will not be imposed on a parcel unless the water services are actually used by, or immediately available to, the owner of the parcel; and

**WHEREAS**, the District, as the lead agency under the California Environmental Quality Act (CEQA), in consultation with the District's Legal Counsel, prepared a Preliminary Exemption Assessment for the adoption of this Ordinance in order to evaluate its potential impacts. The District determined that this Ordinance is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the Service Charges and Other Fees and Charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the System and will not result in the expansion of the System; and

**WHEREAS**, California Constitution article XIII D, section 6 ("Article XIII D") requires that prior to imposing any increase to the Service Charges, the District shall provide written notice (the "Notice") by mail of the proposed increases to such rates and charges to the record owner of each parcel upon which the rates and charges are proposed for imposition and any tenant directly liable for payment of the rates and charges, the amount of the rates and charges proposed to be imposed on each parcel, the basis upon which the rates and charges were calculated, the reason for the rates and charges, and the date time and location of a public hearing (the "Hearing") on the proposed rates and charges; and

**WHEREAS**, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and any tenant directly liable for the payment of the rates and charges not less than forty-five days prior to the Hearing on the proposed rates and charges; and

**WHEREAS**, the District did provide such Notice to the affected property owners and tenants of the proposed Service Charges in compliance with Article XIII D; and

**WHEREAS**, the Hearing was held on this day, May 27, 2009; and

**WHEREAS**, at the Hearing the Board of Directors of the District heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed Service Charges, and at the close of the Hearing the District did not receive written protests against the establishment and imposition of the proposed Service Charges from a majority of the affected property owners and tenants directly liable for the payment of the Service Charges; and

**WHEREAS**, the Board of Directors of the District now desires to establish and impose the proposed Service Charges and to reaffirm the rates for the Service Charges and Fire Service Charges established pursuant to Resolution 03-16; and

**WHEREAS**, the Board of Directors of the District has determined that the rates for the Other Fees and Charges do not need to be increased and shall remain in full force and effect as set forth in Resolution 03-16; and

**WHEREAS**, this Ordinance shall supersede all other previous resolutions and ordinances that may conflict with, or be contrary to, this Ordinance respecting the rates for Service Charges described more particularly herein;

**NOW THEREFORE, BE IT ORDAINED**, by the Board of Directors of the Twentynine Palms Water District as follows:

1. The Board of Directors of the District finds and determines that the foregoing Recitals are true and correct and incorporates the Recitals herein.

2. As the decision making body for the District, the Board of Directors has reviewed and considered the information contained in the Preliminary Exemption Assessment and administrative record. The Board of Directors finds that the Preliminary Exemption Assessment contains a complete and accurate reporting of the environmental impacts associated with the adoption of this Ordinance and reflects the independent judgment of the Board.

3. The Board of Directors hereby reaffirms the prior rates for the Service Charges and the Fire Service Charges established pursuant to Resolution 03-16.

4. The Board of Directors hereby finds that the rates for the Other Fees and Charges do not need to be increased at this time and shall remain in full force and effect as more fully set forth in Resolution 03-16.

5. The Board of Directors hereby establishes and imposes the Service Charges set forth in Exhibit A, effective on the dates, at the rates, and in the amounts set forth therein.

6. The Board of Directors hereby finds that the administration, operation, maintenance, and improvements of the System, which are to be funded by the Service Charges and the Other Fees and Charges set forth herein and in Resolution 03-16, are necessary to maintain service within the District's existing service area. The Board of Directors further finds that the administration, operation, maintenance, and improvements of the System, to be funded by the Service Charges set forth herein and the Other Fees and Charges set forth in Resolution 03-16, will not expand the System. The Board of Directors further finds that such Service Charges and the Other Fees and Charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the System. Based on these findings, the Board of Directors hereby determines that this Ordinance is exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a).

7. The documents and materials that constitute the record of proceedings on which these findings have been based are located at Twentynine Palms Water District, 72401 Hatch Road, Twentynine Palms, CA 92277. The custodian for these records is the General Manager of the District.

8. The Board of Directors hereby authorizes and directs the General Manager to implement and take all actions necessary to effectuate the rates for the Service Charges set forth herein and to file a Notice of Exemption with the County Clerk for the County of San Bernardino within five (5) working days of the date of the adoption of this Ordinance.

9. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The Board of Directors hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

10. This Ordinance shall become effective immediately upon its adoption by the Board of Directors.

**PASSED, APPROVED AND ADOPTED** this 27<sup>th</sup> day of May 2009 by the following vote.

AYES: Directors Anthony, Cisneros, Gallagher, Moore and Yockey

NOES: None

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Philip C. Cisneros, President  
Board of Directors

Attest:

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Mike Wright, Board Secretary  
Twentynine Palms Water District

**EXHIBIT A  
SERVICE CHARGES**

The following fees are authorized and identified in Section 10 of District Ordinance No. 87, adopted on August 20, 2003.

1. **READY TO SERVE/SERVICE CHARGE RATES:**

<b>WATER BILLING CHARGES</b>
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<u>Meter Size</u>	<u>Rates Effective August 1, 2009</u>
5/8"	\$ 11.00
1"	\$ 27.50
1-1/2"	\$ 55.00
2"	\$ 88.00
3"	\$247.50
4"	\$550.00
6"	\$825.00

Rates are shown as monthly charges; however, they are billed bimonthly.

2. **POTABLE WATER QUANTITY/COMMODITY CHARGE RATES FOR METERED POTABLE WATER SERVICE (Per 100 cubic feet of water):**

Effective Date	August 1, 2009	July 1, 2010	July 1, 2011
Metered Potable Water	\$ 1.86	\$ 2.15	\$ 2.33

Rates are shown as monthly charges; however, they are billed bimonthly.

3. **NON-POTABLE WATER QUANTITY/COMMODITY CHARGE RATE FOR METERED NON-POTABLE WATER SERVICE:**

\$0.47/100 cubic feet of water

4. **PAY METER TOKEN RATES:**

Token Size	Tokens Purchased On or After		
	August 1, 2009	July 1, 2010	July 1, 2011
Small (125 gal)	\$ 0.80	\$ 0.85	\$ 0.95
Large (500 gal)	\$ 3.20	\$ 3.40	\$ 3.80