

ORDINANCE NO. 77

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, REVISING THE METHODOLOGY FOR CALCULATING THE ANNUAL SUPPLEMENTAL WATER SUPPLY FEE ESTABLISHED PURSUANT TO LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT ORDINANCE NO. 61

WHEREAS, the Lake Arrowhead Community Services District (“District”) is organized and operates pursuant to California Government Code Section 61000, *et seq.*; and

WHEREAS, on August 7, 2004 the Board of Directors of the District (the “Board”) adopted Ordinance No. 61 establishing a Supplemental Water Supply Fee (the “Fee”) and the methodology for annually calculating the Fee, and authorizing that the Fee be collected on the property tax roll pursuant to California Government Code sections 61115 *et seq.*; and

WHEREAS, in accordance with Ordinance No. 61, the Fee is comprised of two components – an Annual Meter Cost and an Annual Consumption Cost; and

WHEREAS, in accordance with Ordinance No. 61, the Annual Meter Cost and the Total Annual Fee, as such terms are defined in Exhibit A to Ordinance No. 61, increase by two percent (2%) each following Fiscal Year over the amount calculated in the previous Fiscal Year; and

WHEREAS, the Board has determined to revise the methodology for calculating the Fee for each parcel by eliminating the annual two percent (2%) increase in the Annual Meter Costs and the Total Annual Fee; and

WHEREAS, the revision in the methodology for calculating the Fee will not result in an increased amount of the Fee being levied on any person or parcel and therefore the District is not required to mail notice of and hold a public hearing for the adoption of the Fee pursuant to California Constitution article XIII D, section 6(a) and California Government Code section 53750(h).

THE BOARD OF DIRECTORS OF THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The Recitals set forth above are incorporated herein, made findings of this Board and an operative part of this Ordinance No. 77.

Section 2. Supplemental Water Supply Fee. Beginning Fiscal Year 2013/2014, the Board hereby revises the methodology for calculating the Fees by eliminating the annual two percent (2%) increase to the Annual Meter Costs and the Total Annual Fee as previously established by Ordinance No. 61 and as set forth in Exhibit A thereto.

Section 3. Amendment to Ordinance No. 61. Exhibit A of Ordinance No. 61 is hereby amended, and the methodology for calculating the Fee is hereby established as follows:

(a) **Calculation of the Fee.**

The Fee for each parcel shall be calculated each Fiscal Year and submitted to the County of San Bernardino for collection upon the secured property tax rolls. The Total Annual Fee shall be apportioned to Parcels subject to the Fee according to the following methodology.

- Step 1:* Determine the Total Annual Fee.
- Step 2:* Determine the Annual Meter Cost.
- Step 3:* Determine the Total Annual Meter Cost.
- Step 4:* Determine the Total Annual Consumption cost.
- Step 5:* Determine the Annual Consumption Cost for each water meter.
- Step 6:* Sum for each Parcel, the Annual Meter Cost and the Annual Consumption Cost.

(b) **Definitions.** Except where the context of such words or phrases clearly indicates a different meaning or construction, the following words, terms, and phrases, when used in this Ordinance No. 77 or in calculating the Fee pursuant to this Ordinance No. 77, shall have the meanings ascribed to them below:

Annual Consumption Cost: The Annual Consumption Cost is calculated by allocating the Total Annual Consumption Cost to each water meter by Proportionate Consumption of the prior Calendar Year.

Annual Fee: The Annual Fee is the sum for each Parcel, of the Annual Meter Cost and the Annual Consumption Cost for all meters upon a Parcel.

Annual Meter Cost: The Annual Meter Cost is \$251.91.

District: The District is the Lake Arrowhead Community Services District.

Fee: The Fee is the Supplemental Water Supply Fee first adopted by Ordinance No. 61 of the District and as amended by Ordinance No. 77 of the District.

Fiscal Year: The Fiscal Year is defined as the period starting July 1 and ending on the following June 30.

Parcel(s): Parcel means a lot or parcel or real property with a parcel number assigned by the Assessor of the County of San Bernardino.

Proportionate Consumption: The Proportionate Consumption is calculated by taking the consumption recorded in the previous Calendar Year for a water meter divided by the total consumption recorded for all water meters in the District subject to the Fee.

Total Annual Consumption Cost: The Total Annual Consumption Cost is calculated by Subtracting the Total Annual Meter Cost from the Total Annual Fee.

Total Annual Fee: The Total Annual Fee is \$3,807,894.

Total Annual Meter Cost: The Total Annual Meter Cost is calculated by multiplying the Annual Meter Cost by the total number of meters subject to the Fee.

Section 4. CEQA Compliance.

(a) The Board of Directors hereby finds that the Fee is intended to fund as-yet unknown, future projects, programs, and capital improvement projects related to the District's acquisition and development of supplemental water supplies. The Fee does not commit the District to approve any particular project, program, or capital improvement, but will be placed in a separate fund for potential future projects. Accordingly, the District hereby finds that the Fee is not a "project" for purposes of environmental review under the California Environmental Quality Act ("CEQA"), because the Fee is merely "[t]he creation of [a] government funding mechanism[s] or other fiscal activity which do[es] not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment." (Cal. Code Regs., tit. 14, § 15378, subd. (b)(4); *see also Kauffman & Broad-South Bay, Inc. v. Morgan Hill Unified School District* (1992) 9 Cal.App.4th 464, 476 [holding that the formation of a community facilities district to raise revenue is not a "project" subject to CEQA where the formation of the district did not commit the public agency to any definite course of action].) Based on these findings, the Board of Directors hereby determines that any future activities which are to be funded by the Connection Fees and are "projects" under CEQA shall be subject to full environmental review prior to District approval.

(b) The Board hereby finds that the administration, operation, maintenance, and improvements of the water system, which are to be funded by the Fee, are necessary to maintain water service within the District's existing service area. The Board of Directors further finds that the administration, operation, maintenance, and improvements of the water system, to be funded by Fee set forth herein, will not expand the water system. The Board further finds that such Fee is necessary and reasonable to fund the administration, operation, maintenance, and improvements of the water system. Based on these findings, the Board hereby determines that this Ordinance No. 77 as it pertains to the Fee is exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a).

(c) The documents and materials that constitute the record of proceedings on which these findings have been based are located at 28200 State Highway, Suite 03-160, Lake Arrowhead, CA 92352. The custodian for these records is the Secretary of the Board of the District.

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

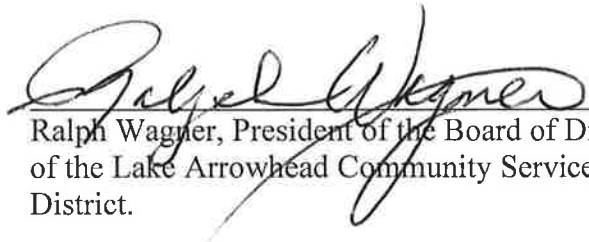
Section 6. Severability. If any Section, subsection, clause or phrase in this

Ordinance No. 77 or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance No. 77 or the application of such provision to other persons or circumstances shall not be affected thereby. The Board hereby declares that it would have passed this Ordinance No. 77 and each Section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more Sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.


Section 7. Inconsistency with other Fees. To the extent the method for calculating the Fees established by this Ordinance No. 77 is inconsistent with method for calculating the Fees pursuant to Ordinance No. 61; it is the explicit intention of the Board that the method for calculating the Fees adopted in this Ordinance No. 77 shall prevail.

INTRODUCED at a Regular Meeting held on July 24, 2012 and **ADOPTED** by the Board of Directors of the Lake Arrowhead Community Services District at a Regular Meeting held on August 14, 2012, by the following votes:

AYES: Butler, Goss, Thompson, Wagner, and Wurm
NOES: None
ABSTENTIONS: None
ABSENT: None


Ralph Wagner, President of the Board of Directors
of the Lake Arrowhead Community Services
District.

ATTEST:


Kathleen Field, Secretary of the Lake
Arrowhead Community Services District
and to the Board of Directors thereof.

SEAL

CERTIFICATION

I, Kathleen Field, Secretary to the Board of Directors of the Lake Arrowhead Community Services District, hereby certify that the foregoing **Ordinance No. 77** was duly and regularly adopted at a regular meeting of the Board of Directors of the Lake Arrowhead Community Services District on **August 14, 2012**.

AYES: Butler, Goss, Thompson, Wagner, and Wurm

NOES: None

ABSTAIN: None

ABSENT: None

Kathleen Field

**Kathleen Field, Secretary of the
Lake Arrowhead Community Services
District and to the Board of Directors**