

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2008-1063**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING APPENDIX B TO CHAPTER 4.12 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO  
ESTABLISH NEW TOWN DIVISION SEWER CAPACITY CHARGES**

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to maintain adequate levels of revenue, equitably collected to meet the District's financial commitments for existing facilities and charges for new facilities to be constructed in the future which benefit the person or property being charged; and

WHEREAS, the District retained Robert Reed, of the Reed Group, Inc., to perform an analysis of the District's existing sewer user rates and capacity charges for District sewer customers and future development within the Town Division. The Reed Group Analysis is found in a report titled "Town Sewer System Financial Plan, User Rates and Capacity Charges" dated August 24, 2007 (herein the "Study"). The intent of the Study is to assess the District's revenue requirements and to provide an independent evaluation of the equity of the District's current capacity charge structure and the relationship (nexus) between rates and charges to operate and maintain facilities and charges for new or expanded sewer facilities, within the Town Division, which benefit persons or property being charged; and

WHEREAS, the proposed capacity charges, as identified in the Study, reflect future developments proportional share of estimated costs for the planned wastewater treatment improvements to the District's Southland Wastewater Treatment Facility as well as the buy-in to the existing sewer system; and

WHEREAS, the Study was received and filed on September 26, 2007, and has been available for public inspection at the District office or on the District's webpage since that date; and

WHEREAS, Government Code §61115 authorizes the District to adopt rates and charges by Resolution; and

WHEREAS, based upon facts and analysis presented by Robert Reed, the Study, the Staff Report, and public testimony received, the Board of Directors finds:

A. The public meetings adopting this Resolution have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act); and

B. That notice has been provided pursuant to Government Code Section 66016; and

C. The rates and charges that are the subject of this Resolution do not exceed the estimated reasonable cost for existing facilities or charges for new facilities to be constructed in the future which benefit the persons or properties being charged; and

D. That the public benefits from the logical, long-range approach to financing of public facilities; and

E. The purpose of the proposed rates includes obtaining funds for capital projects that are necessary to maintain services within the District boundary.

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NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED, by the Board of Directors of the District as follows:

Section 1. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference. The Recitals and referenced reports and studies contained therein constitute and support the findings of the District in support of this Resolution.

Section 2.

Appendix B to Chapter 4.12 of the District Code (Town Division Sewer Capacity Charges) is hereby repealed in its entirety and replaced with the capacity charges reflected in Exhibit "A", attached hereto and incorporated into this Resolution by reference.

Section 3. Repeal of Prior Ordinances and Resolutions

All Ordinances, Resolutions and sections of Ordinances and Resolutions that are inconsistent with this Resolution are hereby repealed.

Section 4. Effect of Repeal on Past Actions and Obligations.

This Resolution does not affect prosecutions for violations committed prior to the effective date of this Resolution, does not waive any fee or penalty due and unpaid on the effective date of this Resolution, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any prior Resolution or Ordinance.

Section 5. CEQA Findings

The Board of Directors of the District finds that the rates and charges adopted by this Resolution exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The District General Manager is directed to prepare and file appropriate notices.

Section 6. Severance Clause.

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution. The Governing Board of the District hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

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Section 7. Effective Date.

This Resolution along with the new capacity charges shall take effect and be in full force and effect sixty (60) days after its adoption.

Upon the motion of Director Eby, seconded by Director Trotter, and on the following roll call vote, to wit:

AYES: Directors Eby, Trotter, Vierheilig, Harrison and Winn  
NOES: None  
ABSENT: None  
CONFLICTS: None

the foregoing resolution is hereby adopted this 23<sup>rd</sup> day of January, 2008.



Michael Winn, President  
Nipomo Community Services District  
Board of Directors

ATTEST:

APPROVED AS TO FORM



Donna K. Johnson  
Secretary to the Board



Jon S. Seitz  
District Legal Counsel

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**EXHIBIT "A"**

**APPENDIX "B" TO CHAPTER 4.12  
TOWN DIVISION  
SEWER CAPACITY CHARGE BASED ON WATER METER SIZE**

<b>METER SIZE</b>	<b>Effective date July 1, 2008</b>
1 Inch or less*	\$6,927.00
1 ½ Inch*	\$20,781.00
2 Inch*	\$33,250.00
3 Inch*	\$62,343.00
4 Inch*	\$103,905.00
6 Inch*	\$207,810.00

**\*Annual Adjustment.** Commencing July 1, 2009, and each fiscal year thereafter, the capacity charge shall be increased to reflect the increase in the costs of the construction of District facilities. The determination of whether there has been an increase in costs and the amount of the increase in costs shall be determined by the percentage increase in the 20-Cities Construction Cost Index published by the Engineering News Record using the July, 2007, value of seven thousand nine hundred fifty-nine (7,959) as the basis and the Index value for May of each year to calculate the increase.