

## RESOLUTION NO. 1854-15 WWD

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WINDSOR WATER DISTRICT APPROVING TEMPORARY WATER SHORTAGE RATE SURCHARGES TO BE IMPLEMENTED IF AND WHEN THE WATER DISTRICT DECLARES THAT BOTH A WATER SHORTAGE EXISTS AND THAT SURCHARGES ARE DEEMED NECESSARY TO BE IMPOSED UPON ITS WATER CUSTOMERS**

#### **RECITALS**

**WHEREAS**, the Windsor Water District (“District”), provides water service throughout the District, including to certain customers outside the boundaries of the District; and

**WHEREAS**, the District water system is operated as a self-supporting utility enterprise; and

**WHEREAS**, the Reed Group prepared a report dated June 1, 2015 entitled “Town of Windsor and Windsor Water District Water and Water Reclamation Financial Plans and Rate Update Study” (“Report”) containing analyses and recommendations for water shortage charges to help encourage water conservation and to help bridge the financial deficit created by a water shortage during mandatory stages of water shortage; and

**WHEREAS**, in accordance with Government Code Section 50076, fees that do not exceed the reasonable cost of providing the service or regulatory activity for which the fees are charged and which are not levied for general revenue purposes are not special taxes; and

**WHEREAS**, the Report demonstrates that the recommended rates do not exceed the reasonable cost of providing such service or regulatory activity and, as such, the proposed rates are not levied for general revenue purposes; and

**WHEREAS**, the Report also demonstrates that the recommended water shortage rate surcharges result in charges to parcels or persons that do not exceed the proportionate cost of providing water services attributable to the parcel; and

**WHEREAS**, at least forty-five days in advance of the public hearing at which this Resolution was considered, notice of the public hearing, and notice of oral and written protest procedures against the proposed rate increases, were mailed to all property owners and customers in compliance with California Constitution Article XIII D, Section 6; and

**WHEREAS**, notice of the public hearing was also published in the local newspaper at least once each week for two weeks prior to the date of the public hearing with the date of the first publication at least 15 days before the public hearing; and

**WHEREAS**, a public hearing was duly held, and at its conclusion the Secretary tabulated the number of written and oral protests received, if any, and reported that there was not a majority protest of the proposed rates by owners or authorized representatives of identified parcels receiving such services.

## FINDINGS

**WHEREAS**, the Board of Directors of the Windsor Water District finds as follows:

A. The purpose of the water shortage rate surcharges established pursuant to this Resolution is to: (1) recover the reasonable estimated cost of the services for which the rates are charged; (2) provide that such costs are allocated among District customers so as to bear a fair and reasonable relationship to customers' burdens on and benefits from District water services; (3) secure the financial stability of the water system; (4) ensure high quality and reliable service; and (5) provide a sound financial plan that will assist in funding capital improvement projects even during periods of water shortages.

B. The water shortage rate surcharges established pursuant to this Resolution are not levied for general revenue purposes.

C. After consideration of the Report, the testimony received at this noticed public hearing, the agenda report, the background documents to the agenda report, and all correspondence received (together, "Record"), the Board of Directors of the Windsor Water District approves and adopts the Report by this Resolution.

D. Adoption of the water shortage rate surcharges set forth in this Resolution is intended to recover costs necessary to maintain the current level of District water service for current and future District customers. As such, such water shortage rate surcharges as they relate to provision of water service to District customers are not a "project" within the meaning of the California Environmental Quality Act or C.E.Q.A. (Public Resources Code § 21080(b)(8)(D)).

E. In adopting the water shortage rate surcharges set forth in this Resolution, the District Board of Directors is exercising its authority pursuant to the Revenue Bond Law of 1941, California Government Code Section 54300 et seq.

F. In accordance with Government Code Section 54354.5(d) the water shortage rate surcharges, as proposed in the Report:

1. are not discriminatory or excessive;
2. will be sufficient under Government Code Sections 54515 and 54354.5(d), which require that charges imposed under the Revenue Bond Law of 1941 will be sufficient to meet outstanding bond obligations, current maintenance and operation expenses and other obligations; and
3. will be in compliance with law.

G. The Record establishes that the costs listed in the Report as those incurred by the District in providing water service to District customers are reasonable estimates of the cost of providing such service, and that the revisions recommended in the Report for establishing water shortage rate surcharges are necessary to encourage water conservation and to recover the reasonable, estimated cost of providing such services for which the rates are charged, to allocate such costs among District customers so that they bear a fair and reasonable relationship to customers' burdens on and benefits from District water service, and to secure the financial stability of District water system in accordance with the analyses contained in the Report.

H. The procedures followed and the rates adopted are in compliance with California Constitution Article XIID.

### ADOPTION OF RATES

**NOW, THEREFORE**, the Board of Directors of the Windsor Water District does resolve as follows:

1. Definitions.

a. "District Customer" shall mean any person, corporation, or other entity that receives District water and/or water reclamation services, including recycled water service, regardless of whether District water and/or water reclamation services are provided to property within the Town of Windsor, property within the Windsor Water District, or property outside the boundaries of the Town of Windsor and/or the Windsor Water District.

b. "Rates" shall mean the charge or charges imposed on District Customers to recover the costs incurred by the District in providing water, recycled water and wastewater services.

2. Temporary Water Shortage Rate Surcharges Imposed.

Temporary water shortage rate surcharges shall apply to and be paid by District Customers at the times, and in the amounts, and otherwise apply and be administered as prescribed in this Resolution. The rate surcharges shall be in addition to the water rates set forth in Resolution No. 1853-15 WWD.

3. Time for Payment of Water Shortage Rate Surcharges.

District Customers shall pay the Rate Surcharges as prescribed in bills issued to District Customers in accordance with Sections 12-3-605 and 12-4-220 of the Windsor Water District Code, subject to all applicable regulations, requirements and penalties for non-compliance pursuant to the District Code and other applicable law, when the following declaration is made by a resolution of the District Board of Directors:

a. A water shortage condition exists; and

- b. Water shortage rate surcharges are imposed during the water shortage condition and will be suspended or terminated by separate District Board resolution when the condition no longer exists.

4. Water Shortage Rate Surcharge Amounts.

The Rate Surcharge percentage amounts shall be as specified in the schedule attached as Exhibit "III-9" to this Resolution, which Exhibit is hereby incorporated by reference into this Resolution.

5. Use of Water Shortage Rate Surcharge Revenue.

The revenues raised by payment of the Rate Surcharge shall be used to help offset the financial deficit created by reduced water sales resulting from water shortage conditions, and to fund up to the estimated reasonable cost of providing the service for which the Rate Surcharge is charged, and the Rate Surcharge revenues shall not be used for general revenue purposes.

6. Subsequent Analysis and Revision of the Water Shortage Rate Surcharge.

The Rate Surcharges set herein are adopted for future implementation by the Board of Directors of the Windsor Water District in reliance on the Record identified above. The District may continue to conduct further study and analysis to determine whether the Rate Surcharge should be revised. When additional information is available, the Board of Directors of the Windsor Water District may review the rates to determine that the Rate Surcharge amounts do not exceed the estimated reasonable cost of providing the services for which the Rate Surcharge is charged.

7. Excess use Penalties.

Excess use penalties, as illustrated in Exhibit III-9 attachment are not adopted in this Resolution but may be adopted by District Board by separate resolution.

8. Effective Date.

This Resolution shall become effective immediately upon adoption.

9. Severability.

The Rate Surcharges and all portions of this Resolution are severable. Should any of the Rate Surcharges or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining Rates and/or Resolution portions shall be and continue in full force and effect, except as to those Rate Surcharges and/or Resolution portions that have been adjudged invalid. The Windsor Water District hereby declares that it would have adopted each of the Rate Surcharges and this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more of the Rates or sections, subsections, clauses, sentences, phrases or other portions of this Resolution may be held invalid or unconstitutional.

**PASSED, APPROVED AND ADOPTED this 15th day of July 2015, by the following vote:**

**AYES: BOARD MEMBERS FOPPOLI, FUDGE, SALMON,  
VICE PRESIDENT MILLAN AND PRESIDENT OKREPKIE**  
**NOES: NONE**  
**ABSTAIN: NONE**  
**ABSENT: NONE**



**BRUCE OKREPKIE, PRESIDENT**

**ATTEST:**



**MARIA DE LA O, SECRETARY**

Attachment: Exhibit "III-9"

**Exhibit III-9  
Windsor Water District  
Proposed Water Shortage Rate Surcharges Applied to Normal Water Rates for FY 15-16 (1)**

	Normal	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
Water Use Reduction Goal -->	None	10%	20%	30%	40%	50%
<b>Water Usage Rates (\$/gallon)</b>						
<b>Water Shortage Surcharge (2)</b>			10%	20%	30%	40%
<b>Excess Use Penalty (3)</b>					25%	50%
Excess Use Penalty Applied to:					Tier 4	Tier 4
Single Family Residential						
1st Tier      0-4,000 gal/mo	\$ 0.00316	No change	\$ 0.00348	\$ 0.00379	\$ 0.00411	\$ 0.00442
2nd Tier      4,001-7,000 gal/mo	\$ 0.00344	No change	\$ 0.00378	\$ 0.00413	\$ 0.00447	\$ 0.00482
3rd Tier      7,001-17,000 gal/mo	\$ 0.00485	No change	\$ 0.00534	\$ 0.00582	\$ 0.00631	\$ 0.00679
4th Tier      Over 17,000 gal/mo	\$ 0.00587	No change	\$ 0.00646	\$ 0.00704	\$ 0.00954	\$ 0.01233
Multi-Family Residential (per dwelling unit)						
1st Tier      0-2,000 gal/mo/DU	\$ 0.00316	No change	\$ 0.00348	\$ 0.00379	\$ 0.00411	\$ 0.00442
2nd Tier      2,001-3,000 gal/mo/DU	\$ 0.00344	No change	\$ 0.00378	\$ 0.00413	\$ 0.00447	\$ 0.00482
3rd Tier      3,001-5,500 gal/mo/DU	\$ 0.00485	No change	\$ 0.00534	\$ 0.00582	\$ 0.00631	\$ 0.00679
4th Tier      Over 5,500 gal/mo/DU	\$ 0.00587	No change	\$ 0.00646	\$ 0.00704	\$ 0.00954	\$ 0.01233
Town Commercial      All usage	\$ 0.00371	No change	\$ 0.00408	\$ 0.00445	\$ 0.00483	\$ 0.00520
Town Irrigation - Winter      Nov-May	\$ 0.00316	No change	\$ 0.00348	\$ 0.00379	\$ 0.00411	\$ 0.00443
Town Irrigation - Summer      Jun-Oct	\$ 0.00389	No change	\$ 0.00428	\$ 0.00467	\$ 0.00506	\$ 0.00545
Airport Commercial      All usage	\$ 0.00587	No change	\$ 0.00645	\$ 0.00704	\$ 0.00763	\$ 0.00821
Airport Irrigation - Winter      Nov-May	\$ 0.00500	No change	\$ 0.00549	\$ 0.00599	\$ 0.00649	\$ 0.00699
Airport Irrigation - Summer      Jun-Oct	\$ 0.00620	No change	\$ 0.00682	\$ 0.00744	\$ 0.00806	\$ 0.00868
Recycled Water - Urban      All usage	\$ 0.00297	No change	\$ 0.00327	\$ 0.00356	\$ 0.00386	\$ 0.00416

**Notes:**

- (1) The percentages shown for the water shortage surcharge and excess use surcharge would be applied to any future water rate schedule.
- (2) Water shortage surcharges are a percentage increase to all normal water use rates, but not pumping charges or fixed service charges.
- (3) Excess use penalties are a percentage increase to the combined water usage rate and water shortage surcharge applied only to the residential fourth tier.