

New sewer rates take effect July 1, 2015; water rate increases on hold pending further review of San Juan Capistrano Court Decision

At the April 21 Board meeting the Hidden Valley Lake Community Services District Board of Directors adopted new sewer rates, effective July 1, 2015. The proposed sewer rates consist of two components, a “fixed charge” and a “volumetric charge”. All sewer customers pay the same fixed charge, while the volumetric charge is determined by the average monthly water usage for the months of January through April. As a general rule, a residential or commercial customer’s average monthly water use for the months of January through April provides a reasonable estimate of the wastewater produced each month of the year. Customers generating less wastewater will pay less for sewer service than those producing larger volumes of wastewater.

MONTHLY SEWER RATES (Effective July1, 2015)						
<i>“Fixed” Charge by Meter Size</i>	Current Monthly Rate	FY 2015/2016	FY 2016/2017	FY 2017/2018	FY 2018/2019	FY 2019/2020
Residential*	\$50.18	\$38.92	\$42.03	\$45.39	\$49.02	\$51.96
Commercial & Government (per HEU)	\$50.18	\$38.92	\$42.03	\$45.39	\$49.02	\$51.96
<i>“Volumetric” Charge per 100 cubic feet of monthly water use</i>						
Residential*	-	\$2.07	\$2.23	\$2.41	\$2.60	\$2.76
Commercial & Government	-	\$2.25	\$2.43	\$2.62	\$2.83	\$3.00

*Includes single and multifamily; multifamily assessed per HEU

Sewer charges will be adjusted on July 1 of each year, with the volumetric charge being based on actual average monthly water usage in the preceding months of January through April.

The Board discussed but did not adopt the proposed water rate increases, which included a tiered water rate structure. On April 20, 2015 California’s 4th District Court of Appeal found that the City of San Juan Capistrano’s tiered water rate structure was unconstitutional because it charged more for water than it cost to provide the service. Pursuant to Proposition 218, water rate charges cannot exceed the cost of providing water service. Historically, tiered water rate structures have been used to incentivize water conservation by charging higher rates for “excessive” water use. Typically, the charge rates associated with excessive water use are greater than the corresponding cost of providing water service.

Although the Court of Appeal did not conclude that tiered water rate structures were unconstitutional per se, the Court also did not define what constitutes a credible cost of service analysis in support of a tiered water rate structure, thereby leaving all tiered water rate structures open to legal challenges. At least for now, the future of tiered water rate structures and more specifically the legality of tiered water rate structures remain unclear.

The District’s proposed tiered water rate structure included excessive water use tiers that were designed to incentivize water conservation and were not strictly based on the actual cost of providing water service. Given the uncertainty regarding tiered water rates, the District will be proposing an alternative rate structure and will issue a new Proposition 218 water rate increase notice in the near future.