

Attachment G3

RESOLUTION NO. 21-09

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE HI-DESERT WATER DISTRICT AMENDING THE DISTRICT CODE REGARDING INSPECTION OF COMMERCIAL ESTABLISHMENTS, WASTEWATER TREATMENT FEES AND ESTABLISHING NEW COMMERCIAL SERVICE FEES FOR WASTEWATER TREATMENT PERMITS, INSPECTIONS, AND CONTROL

WHEREAS, Hi-Desert Water District provides wastewater service within its service area, and is authorized to impose fees and charges for such services and for permitting and inspection necessary to comply with state law; and

WHEREAS, in addition to the authority granted by the State Constitution, Government Code section 66018 provides that the District may establish or increase fees for certain public services by resolution; and

WHEREAS, Section (D)(13)(vii)(e) of State Water Resources Control Board Order No. 2006-0003-DWQ Statewide General Waste Discharge Requirements For Sanitary Sewer Systems Waste Discharge requires the District to conduct compliance inspections of certain commercial and industrial facilities or sites; and

WHEREAS, Section 8.15.030 of the District's Administrative Code ("Code") authorizes the District to conduct inspections to ensure wastewater discharge complies with requirements of the District's Code, and the District is further authorized to adopt fees and charges to recover the cost of such inspections; and

WHEREAS, in order to ensure that all potential Fats, Oils and Grease ("FOG") producing commercial establishments are inspected, all commercial establishments must submit a "FOG" application; and

WHEREAS, this Resolution establishes new service fees to recover all the cost of permitting, monitoring, inspecting, and responding to accidental discharges, which shall not exceed the District's reasonable cost of providing such services; and

WHEREAS, for each fee, the District completed a cost analysis which is attached to this Resolution as Exhibit A; and

WHEREAS, the District is proposing to adopt three new fees for discharge of "FOG", including an annual inspection and control fee of \$120 ("Inspection and Control Fee"), a follow-up inspection fee of \$60 ("Follow-Up Fee") and a one-time inspection fee of \$100 ("Initial Inspection Fee" and, collectively, the "FOG Fees"); and

WHEREAS, all permitted commercial establishments must pay the Inspection and Control Fee for the purpose of covering the District's cost for permit renewal, inspections, monitoring commercial establishments, inventory control and development, system development and data

management, and reporting back to local, State, and Federal authorities; and

WHEREAS, the Inspection and Control Fee covers the cost of one inspection, and each additional event of non-compliance necessitating an additional inspection shall result in an additional \$60 Follow-Up Fee; and

WHEREAS, the Application Fee is required for each commercial establishment application for a FOG wastewater discharge permit, and must be received by the District prior to issuance of the permit; and

WHEREAS, the cost analyses were made available for review in the District's Office at least ten (10) days prior to the public hearing before the Board of Directors on this Resolution; and

WHEREAS, the District has determined that the fees proposed in this Resolution are reasonable, fair, and equitable in nature and are proportionately representative of the costs incurred by the District for the described services; and

WHEREAS, the adoption of this Resolution falls within a statutory exemption from environmental review pursuant to sections 15273, 15060(c)(2) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which pertain to the establishment, modification, structuring, restructuring, or approval of rates and charges by public agencies which the public agency finds are for the purpose of meeting operating expenses, and pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under CEQA Regulations;

WHEREAS, the District provided notice of the Public Hearing pursuant to Government Code Sections 6062a and 66018, by publishing notice on October 24, 2019, and October 31, 2019, in the Hi-Desert Star newspaper; and

WHEREAS, on November 13, 2019, the District conducted a Public Hearing on the proposed fees set forth in the Resolution.

NOW, THEREFORE BE IT FINALLY RESOLVED by the Board of Directors of the Hi-Desert Water District that this Resolution shall rescind 19-38 and supersede all other previous District resolutions and ordinances that may conflict with, or be contrary to, this Resolution as follows:

SECTION 1. The recitals set forth above are true and correct, and by this reference incorporated herein.

SECTION 2. The District hereby amends Section 8.15.140, Wastewater Treatment Fees, of the District Code to read as shown in Exhibit B, attached hereto and incorporated herein. In addition, the District hereby adds a definition for "Food Service Establishment" to Section 8.15.010, Definitions, of the District Code to read as shown in Exhibit A. Section 8.15.010 shall be renumbered as appropriate to add such definition. Except as expressly provided by this Resolution and Exhibit B, the provisions of the District Code shall remain unchanged and in full force and effect.

SECTION 3. The Board of Directors hereby finds and determines that, based on the cost analyses attached as Exhibit A to this Resolution and incorporated by reference hereto, the following fees shall be adopted:

a. If after review of the FOG Waste Discharge Permit Application an Initial Inspection is deemed necessary, an Initial Inspection Fee in the amount of \$100, shall be due and must be received by the District prior to the Initial Inspection being performed; and

b. Any commercial property that is deemed, after the initial inspection, to not require a FOG permit, will be reimbursed the Initial Inspection Fee.

c. Inspection and Control Fee in the amount of \$120, which shall be an annual fee due prior to the renewal of a FOG wastewater discharge permit, and which shall cover the cost of one inspection.

d. Follow-Up Fee in the amount of \$60 for each additional inspection necessary as a result of non-compliance.

SECTION 4. That the FOG Fees for services provided in Section 3 above are hereby approved and shall take effect immediately.

SECTION 5. That the Board of Directors makes the following findings relating to the FOG Fees:

a. The FOG Fees are imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the District of providing the service or product; and

b. The FOG Fees are imposed for the reasonable regulatory costs to the District for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof; and

c. The evidence supporting the findings set forth above is attached hereto;
and

d. As such, the FOG Fees are not taxes within the meaning of article XIII C, section 1(e) of the California Constitution.

SECTION 6. If any section, subsection, clause or phrase in this Resolution or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Resolution or the application of such provisions to other persons or circumstances shall not be affected thereby. The Board hereby declares that it would have passed this Resolution 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. The Secretary shall attest and certify to the passage and adoption of this Resolution. This Resolution shall take effect immediately upon adoption.

APPROVED AND ADOPTED this 2nd day of June, 2021 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Roger Mayes,

President of the Board of Directors

Attest:

Paul Peschel, General Manager

Secretary of the Board of Directors