

ORDINANCE NO. 973 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTION 14.04.020 OF THE CITY OF EL PASO DE ROBLES
MUNICIPAL CODE TO ESTABLISH A
UNIFORM CONSUMPTION-BASED WATER FEE STRUCTURE

WHEREAS, on April 6, 2010, City Council passed and adopted Ordinance No. 967 establishing a uniform, consumption-based water rate to be effective on January 1, 2011; and

WHEREAS, Ordinance No. 967 was challenged in court (Borst *et al.* v. City of Paso Robles) claiming that the proposed water user fees were "special taxes," and that City should have followed a different approval process; and

WHEREAS, the Court ruled that water user fees are not special taxes, but that under Proposition 218, the water rate notice should have included more information regarding the basis for the proposed rates; and

WHEREAS, on February 1, 2011, City Council confirmed it wished to maintain the same uniform water rates set forth in Ordinance No. 967, with the only change being the date on which the new rates would take effect to January 1, 2012; and

WHEREAS, notices regarding an April 5, 2011, public hearing and the opportunity to file protests were mailed on February 9, 2011 to all property owners and tenants, which notices included detailed information on the basis for the new rates, pursuant to the requirements of Proposition 218 and Article XIII D of the California Constitution; and

WHEREAS, the City Council held a duly noticed public hearing on April 5, 2011, and considered any and all property owner and tenant protests; and

WHEREAS, at the public hearing on April 5, 2011, the City Clerk attested that written protests against the water rates or the change in effective date had not been filed by a majority of property owners;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. In accordance with Article XIII D, Section 6(b) of the California Constitution, the City Council makes the following findings:

- A. The revenues derived from the water rate increase do not exceed the funds required to provide water service because the rates are calculated to allow the City to recover its cost associated with (i) its contractual obligation to pay for a portion of the costs of construction of the Nacimiento Water Project; (ii) to the extent possible, a portion of the costs of the design and construction of the proposed water treatment plant; and (iii) the other necessary and essential ongoing costs of operation and maintenance of the City's water delivery system. This finding is based upon the information contained in the notice, the "2010 Uniform Water

Rate Study – Final Report” dated January 25, 2010, as confirmed by the “Supplemental Report on the Uniform Water Rate Study” dated November 22, 2010, by Kennedy/Jenks Consultants, the staff report to the City Council at the public hearing and the testimony presented at the public hearing.

B. The revenues derived from the water charges will not be used for any purpose other than that for which the charge is imposed. This finding is based on the fact that all revenues collected from water customers are deposited into a designated fund for such water operations purpose.

C. The charges do not exceed the proportional cost of the water service attributable to each parcel. This finding is based on the fact that the proposed rates are based upon the City’s actual cost of providing water service to its customers, divided by the actual amount of water used on such parcel.

D. The proposed increases in the rates are intended to balance the anticipated increase in costs of delivering water and the possible reductions in the amount of water used.

SECTION 2. The current water rates established by Ordinance No. 882 N.S. shall remain in effect until December 31, 2011. Effective January 1, 2012, paragraph C. of Section 14.04.020 of the Paso Robles Municipal Code is hereby revised in its entirety to read as follows:

"14.04.020 Fees

....

"C. Fees – Water Usage Rates. The monthly rates to be charged and collected for all water consumption, including private fire lines, bulk water delivery or fire hydrant usage, from every water customer, including, but not limited to, any person, school, business entity or corporation, shall be charged at rates established by ordinance of the City Council.

The water usage rates shall be reviewed no less than annually in conjunction with the update of the city’s budget to ensure that water user fees then in existence do not exceed the costs of providing water service within the City.

Beginning on January 1, 2012, the monthly water usage fee to be charged for each unit of water, or 748 gallons, used shall be as follows:

January 1, 2012:	\$2.50/unit
January 1, 2013:	\$3.20/unit
January 1, 2014:	\$3.70/unit
January 1, 2015:	\$4.10/unit
January 1, 2016	\$4.40/unit"

SECTION 3. Severability Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other

provision of this Ordinance or the application of this Ordinance to any other person or circumstances and, to that end, the provisions hereof are severable.

SECTION 4. Effective Date This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 5. Publication The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California, and cause the same to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code Section 36933.

Introduced at a regular meeting of the City Council held on April 5, 2011, and passed and adopted by the City Council of the City of El Paso de Robles on the 19th day of April, 2011, by the following roll call vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Duane Picanco, Mayor

Caryn Jackson, Deputy City Clerk