

ORDINANCE NO. 42

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE ROSSMOOR/LOS ALAMITOS AREA SEWER DISTRICT ESTABLISHING SEWER USER RATES AND CHARGES

WHEREAS, pursuant to the County Water District Law, Water Code 30000 et seq., the Rossmoor/Los Alamitos Area Sewer District ("District") has the authority to adopt ordinances relating to the provision of sewer services and facilities, and regulations of those services and facilities.

WHEREAS, Health & Safety Code Section 5470 et seq. further authorizes the District to adopt fees and charges for the acquisition, construction, reconstruction, maintenance, and operation of sanitary sewer system facilities.

WHEREAS, the Regional Water Quality Control Board for the Santa Ana Region adopted Order R8-2002-0014, which prescribes general waste discharge requirements prohibiting sanitary sewer overflows and other maintenance and operational requirements by sewer collection agencies (Waste Discharge Requirements).

WHEREAS, the Federal Clean Water Act and the Waste Discharge Requirements require each governmental entity that operates a sanitary sewer system in the watershed to maintain and replace its sanitary sewer system infrastructure in the manner necessary to prevent sewage spills.

WHEREAS, sewage spills are harmful to the public health and the environment.

WHEREAS, the Waste Discharge Requirements mandate the adequate funding for proper management, operation, and maintenance of the sanitary sewer system.

WHEREAS, the District intends to ensure that sufficient revenues are collected to adequately manage, operate, and maintain its sanitary sewer system facilities.

WHEREAS, the Government Accounting Standards Board now requires that maintenance of infrastructure be accounted for and that reserves be in place to maintain such infrastructure (GASB 34).

WHEREAS, the District currently does not have a wastewater service charge and current revenues consist mostly of property tax revenue established pre-Proposition 13. With an aging infrastructure and increases in maintenance and replacement costs required to comply with the foregoing State regulatory requirements, the District must establish new rates and charges to raise sufficient revenue to fund operating and capital needs, and maintain appropriate levels of operating and capital reserves.

WHEREAS, the District is proposing to implement new sewer rates using Equivalent Dwelling Unit methodology (EDU) based on a Comprehensive Sewer Service User Fee and Charges Study developed by Tuckfield & Associates (Tuckfield), which identifies the estimated funds necessary to operate, maintain, replace and upgrade the District's sewage

collection system to adequate capacity and make repairs mandated through the Waste Discharge Requirements of the Santa Ana Regional Water Quality Control Board.

WHEREAS, the District Board has received the study from Tuckfield recommending a fee structure based upon use of the sanitary sewer system.

WHEREAS, the Tuckfield study recommends setting the fees based upon the four major classes of sanitary sewer system users discharging wastewater to the District's sanitary sewer system.

WHEREAS, the four major classes of sanitary users are as follows: Single-Family Residential, Multi-Family Residential, Mobile Home Park, and Non-Residential that includes commercial, industrial, institution (including public and private schools), and governmental (including other public facilities).

WHEREAS, for residential customers, the proposed rates are structured on the basis of units of service, referred to individually as an EDU. The EDU system ensures that sewer service fees are proportional to the availability and demand for sewer services. Parcels are assigned EDUs based on property usage, and charged for sewer services on a per-EDU basis.

WHEREAS, an EDU is the quantity of wastewater that an average single-family residential customer contributes to the wastewater system. Each residential parcel is assigned one EDU.

WHEREAS, EDUs for multi-family residential and business customers are assigned EDUs based on their expected quantity of wastewater discharged relative to an average single-family residential customer. For residential users, service charges are based on the flow of the dwelling unit, whereas for non-residential user's service charges are based on the flow per 1,000 square feet (s.f.) of building space related back to one EDU. EDU levels are based upon available data, industry standards, and best professional estimates by engineers and consultants of the District.

WHEREAS, the fees collected pursuant to this Ordinance shall be used for purposes of the operation, maintenance and management of the District's sanitary sewer system.

NOW, THEREFORE, the Board of Directors does hereby ordain as follows:

SECTION 1. PURPOSE AND SCOPE. The purpose of this Ordinance is to establish Sewer Fees and Charges required to be paid by property owners for the services and facilities furnished by the District relating to its sewage collection system. Revenues derived under the provisions of this Ordinance shall be used for the acquisition, construction, reconstruction, maintenance, and operation of the wastewater collection facilities of the District; to repay principal and interest on debt instruments; or to repay federal and state loans, if any, issued for the construction and reconstruction of said sewerage facilities, together with costs of administration and provisions for necessary reserves.

SECTION 2. ANNUAL SEWER FEES AND CHARGES. Commencing with the effective date of this Ordinance, the owner of each parcel of real property located within the District which is improved with structures designed for residential, commercial, or industrial use and which, at the request of the owner or the owner's predecessor-in-interest, is connected to the District's sewer system, shall pay an annual sewer fee based on the respective class of users, in the sum or sums, as set forth in Section 3 of this Ordinance.

SECTION 3. ESTABLISHMENT OF SEWER SERVICE FEES AND CHARGES. Based on the engineering and financial studies, and pursuant to provisions of California Health & Safety Code Section 5471, the following sewer service charges are hereby established for each property use type:

Use Type	Charge Basis	Annual Wastewater Services Charges				
		FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
One Residence	Per unit	\$31.17	\$31.17	\$31.17	\$31.17	\$31.17
Multi-Unit Residence	Per unit	\$24.94	\$24.94	\$24.94	\$24.94	\$24.94
Mobile Home Park	Per unit	\$15.59	\$15.59	\$15.59	\$15.59	\$15.59
Non-Residential	Per 1,000 s.f.	\$29.09	\$29.09	\$29.09	\$29.09	\$29.09

SECTION 4: REBATES OR REFUNDS.

A. **Exemptions.** It is the intent of the District that the legal owner(s) of parcels of real property, otherwise subject to the levy and payment of the sewer fees, as prescribed herein, be relieved, in whole or in part, from the payment of said fees, in certain circumstances and under conditions prescribed herein, and be entitled to either a rebate or a refund with respect to fees paid, as more specifically set forth in subparagraphs 4.B. and 4.C. below; provided an inequity is established or a billing error is proven, as specified in subparagraphs 4.B. or 4.C.

B. **Application for Rebate.**

(1) Any property owner may apply to the District for a rebate of sewer fees paid to the District by establishing that an incorrect classification of the property has been made by the District. An applicant for a rebate must establish, by proof satisfactory to the General Manager of the District, or his/her designee, that an inequity exists between the amount of the charge paid and the amount of wastewater discharged to the District's system, resulting in an incorrect classification. Satisfactory proof shall establish that either:

(a) The principal water use is agricultural or horticultural; or

(b) The property is devoted to any other use wherein the amount of wastewater discharged to the District's system is significantly less on a regular basis than the amount that would normally be expected to be discharged by the class of property in question.

(2) Satisfactory proof shall include, but not be limited to, documentation showing actual water usage for each billing cycle during the entire period for which the rebate is sought.

(3) The amount of any rebate shall not reduce the charge payable by any property owner, whose property is connected to the District's system, to less than the single family residential charge shown on the applicable Table in Section 3 hereof.

C. Application for Refund. Any property owner may apply to the District for a refund of sewer fees paid to the District by establishing that the amount paid was pursuant to an error in the amount billed or the amount paid. The applicant for a refund must submit proof satisfactory to the General Manager of the District, or his/her designee, that a billing error has been made by the District or the County Tax Collector. Such proof shall include, but not be limited to, proof that:

- (1) The owner's parcel of property is not connected to the District's system; or
- (2) The property has not been classified in the proper land use category; or
- (3) A clerical error has been made.

D. Limitations Period. Applications for rebates and refunds shall be deemed to be governed by the provisions of California Revenue & Taxation Code Sections 5096 and 5097, allowing for refunds for a period of four (4) years from the date of payment of the second installment of the bill claimed to be either inequitable or incorrect.

E. Determination. All applications for rebates or refunds of the Sewer User Fees will be determined by the General Manager of the District, or his/her designee, who, based on the submitted proof, may grant a full or partial rebate or refund.

F. Administrative Fee. At the time of filing the application for rebate or refund, the property owner shall pay District an administrative fee for the processing of such application. The amount of the fee shall be equal to the total of all fees and charges imposed on the District by any other public entity, such as the Orange County Tax Collector, the Orange County Auditor, or the Orange County Recorder, in connection with the rebate or refund.

G. Underpayment. In the event the District determines that, due to a billing or payment error, or to inequity in the amount billed, a property owner has underpaid annual sewer fees payable to the District, the District may, within four (4) years after the date of mailing of the tax bill:

- (1) Collect the amount of any deficiency directly on the County Tax Roll;
- (2) Off-set the amount of any deficiency against any amounts that the District determines is owing, by the District, to the property owner, as a rebate or refund under this Ordinance; or
- (3) Submit, directly to the property owner, a bill for the amount of any deficiency, which shall be due and payable within thirty (30) days of the invoice date and which, if not paid, shall become a lien on said property.

SECTION 5: COLLECTION OF SEWER FEES AND CHARGES. Pursuant to the provisions of California Health & Safety Code Section 5473, the Board of Directors hereby elects to have the sewer fees and charges collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the District.

SECTION 6. EFFECTIVE DATE. These regulations shall take effect immediately upon its adoption and a copy shall have been published in full in a newspaper of general circulation within ten days as provided by law.

ADOPTED, SIGNED AND APPROVED at a regular meeting of the Board of Directors of the District held this 10th day of June, 2019.

President

ATTEST:

Secretary

CERTIFICATION

I, Susan Bell, Secretary of the Rossmoor/Los Alamitos Area Sewer District do hereby certify that the foregoing Ordinance No. 42 was duly adopted at a regular meeting of the Board of Directors of said District, held on the 10th day of June, 2019, by the following vote of the members of the Board:

AYES: _____
NOES: _____
ABSENT: _____

and I further certify that Van Jew, as President and Susan Bell, as Secretary, signed and approved said Ordinance on the 10th day of June, 2019.

Secretary

STATE OF CALIFORNIA)
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COUNTY OF ORANGE)

I, Susan Bell, Secretary of Rossmoor/Los Alamitos Area Sewer District do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 42, passed and adopted by the Board of Directors of said District at a regular meeting thereof held on the 10th day of June, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official Seal of said District this 10th day of June, 2019.

Secretary