

ORDINANCE NO. OCSD-38

AN ORDINANCE OF THE BOARD OF DIRECTORS OF ORANGE COUNTY SANITATION DISTRICT ESTABLISHING LOCAL SANITARY SEWER SERVICE CHARGES FOR CUSTOMERS RECEIVING LOCAL SANITARY SEWER SERVICE IN FORMER REVENUE AREA 7

ADOPTING TABLE A RE RESIDENTIAL LOCAL SEWER SERVICE FEES AND TABLE B RE PROPERTY USE CLASSIFICATIONS FOR LOCAL SEWER SERVICE CHARGES FOR COMMERCIAL OR INDUSTRIAL USERS

WHEREAS, for purposes of improved efficiency and effectiveness of the District's operations, it is the intent, by the adoption of this Ordinance, to establish local sanitary sewer service charges for customers receiving local sanitary sewer service in former Revenue Area 7.

NOW, THEREFORE, the Board of Directors of the Orange County Sanitation District does hereby ORDAIN:

Section I. Fees and Charges Ordinance – Adopted

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ARTICLE I

RECITAL OF FINDINGS

Section 1.01. Findings – Declaration of Intent. The Board of Directors of the District hereby adopts the following Findings supporting the amounts of charges and fees adopted pursuant to this Ordinance.

A. That the District previously was organized into nine “Revenue Areas” representing distinct geographic regions within the District’s jurisdiction. Revenue Area 7 included unincorporated areas of Orange County and a portion of the City of Tustin.

B. That since the mid-1960s, the District has maintained the local sewers of approximately 18,000 parcels located in former Revenue Area 7 and that the District charges an annual regional sewer user fee to its customers, which appears as a special assessment on the annual property tax bill, but does not currently bill its customers in former Revenue Area 7 for the local sewer service it provides.

C. That, currently, dedicated ad valorem taxes are insufficient to meet the total expenditure needs to maintain the local collection system in former Revenue Area 7 and regional user fee revenues have been used to meet shortfalls.

D. That the District has completed a study to determine a fair and equitable local sewer use fee that will support the cost of operating and maintaining the local sewers in former Revenue Area 7.

E. That the revenues derived under the provisions of this Ordinance will be used for the acquisition, construction, reconstruction, maintenance, and operation of the local sewer system facilities of the District; together with costs of administration.

F. That the owners or occupants of properties upon which all fees and charges established by this Ordinance are levied, discharge wastewater to the local sewer system operated and maintained by OCSD.

G. That the Local Sanitary Sewer Service Charges established and levied by this Ordinance are to allow the District to recover the reasonable costs to provide a service to individual properties which have been improved for any of numerous types of uses. The basis for the respective charge is the request of the owner of property or a

structure thereon, for the benefit of him/her/itself, or the occupants of the property, to receive a service based upon the connection to the local sewer line maintained by the District.

H. That the Local Sanitary Sewer Service Charges established by this Ordinance are not imposed as a condition of approval of a development project, as defined in California Government Code Section 66001, and do not exceed the estimated reasonable cost to provide the sewer service for which the fee is levied, as provided in Government Code Sections 66013 and 66016 and California Constitution Article XIID.

I. That the Local Sanitary Sewer Service Charges adopted herein will not foreseeably result in an expansion of facilities to provide for growth outside the existing service area. The adoption of these Local Sanitary Sewer Service Charges will not result in any specific project, nor result in a direct physical change in the environment.

J. That the Local Sanitary Sewer Service Charges adopted herein are established upon a rational basis between the fees charged each customer and the service and facilities provided to each customer of the local sewer service area of the District.

K. That all fees and charges established herein have been approved by the District's Board of Directors at a noticed public meeting, all in accordance with applicable provisions of law.

L. That the adoption of this Ordinance is statutorily exempt under the California Environmental Quality Act pursuant to the provisions of Public Resources Code Section 21080(b)(8) and California Code of Regulations Section 15273(a).

## ARTICLE II

### LOCAL SEWER SERVICE CHARGES

Section 2.01.        Purpose and Scope. The purpose of this Ordinance is to establish Local Sanitary Sewer Service Charges required to be paid by property owners for the services and facilities furnished by the District in connection with the local sewage collection system. Revenues derived under the provisions of this Ordinance shall be used for the acquisition, construction, reconstruction, maintenance, and operation of the local sewer system together with costs of administration.

Section 2.02.        Annual Local Sewer Service Charge.  
Commencing with the effective date of this Ordinance, the owner of each parcel of real property located within the local sewer service area operated and maintained by 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 system, shall pay an annual Local Sewer Service Charge based on the respective class of users, in the sum or sums, as set forth in Tables A and B of this Ordinance, below. The annual Local Sewer Service Charges for residential users are set forth in Table A. The applicable single family residential rate shown in Table A is multiplied by the applicable percentage figure shown on Table B with respect to the particular use classification to arrive at the annual Local Sewer Service Charge rate per 1,000 square feet for the commercial or industrial user. The annual Local Sewer Service Charges for commercial or industrial users are dependent upon the respective classifications of property use, determined by reference to Table B.

#### Section 2.03.

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 Local Sewer Service Charges, as prescribed herein, be relieved, in whole or in part, from the payment of said charges, in certain circumstances and under conditions prescribed herein, and be entitled to either a rebate or a refund with respect to charges paid, as more specifically set forth in Subparagraphs 2.03B and 2.03C below, provided an inequity is established or a billing error is proven, as specified in Subparagraphs B or C.

B.        Application for Rebate. Any property owner may apply to the District for a rebate of Local Sewer Service Charges paid to the District by establishing that an unfair valuation 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 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 unfair valuation. Satisfactory proof shall establish that either:

- (1)        The principal water use is agricultural or horticultural; or

(2) 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.

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.

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 attached hereto.

C. Application for Refund. Any property owner may apply to the District for a refund of Local Sewer Service Charges 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 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 property use classification code; or
- (3) A clerical error has been made.

D. Limitations Period. Applications for refunds shall be deemed to be governed by the provisions of California Revenue & Taxation Code Sections 5096 and 5097. Applications for rebates shall be deemed a claim and be governed by the provisions of California Government Code Sections 935 et seq., and shall be presented to the District as provided in the Government Tort Claims Act, Government Code Sections 915 et seq., not later than four (4) years after the submission of the roll to the County Auditor/Controller, and the claim for rebate may only be made with respect to amounts paid or payable under such property tax bill. A claim for rebate is not deemed a claim for refund, and California Revenue & Taxation Code Sections 5096 and 5097 are not applicable.

E. Determination. All applications for rebates or refunds of the Local Sewer Service Charge will be determined by the General Manager of the District, or his 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.

Section 2.04.            Annual Charge. The Local Sewer Service Charges established by this Ordinance shall be as set forth in Tables A and B, attached hereto, and shall remain in effect until such time as the rates adopted herein are changed by District Ordinance. There shall be no proration of such charges in any fiscal year.

Section 2.05.            Method of Collection.

A. Pursuant to the authority granted by California Health & Safety Code Section 5473, and except as otherwise provided in Subparagraph 2.05B below, all local sewer service charges established herein shall be collected on the County Tax Roll in the same manner, by the same persons, and at the same time as, together with, and not separately from, its general taxes. The County Tax Collector is authorized and hereby ordered to make said collections in accordance with the terms and conditions of agreements between the County of Orange and the District.

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

- (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 District determines is owing, by 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.

**TABLE A**

**ANNUAL LOCAL SEWER SERVICE FEES**  
**RESIDENTIAL USERS**

<b>YEAR</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>SFR*</b>	<b>\$199.00</b>	<b>\$204.00</b>	<b>\$208.00</b>	<b>\$212.00</b>	<b>\$216.00</b>
<b>MFR</b>	<b>\$139.30</b>	<b>\$142.80</b>	<b>\$145.60</b>	<b>\$148.40</b>	<b>\$151.20</b>

**SFR = SINGLE FAMILY RESIDENTIAL**

**MFR = MULTI FAMILY RESIDENTIAL**

**\* The SFR fee is the minimum local sewer service charge any user must pay.**

**TABLE B**

**ANNUAL LOCAL SEWER SERVICE CHARGES**

**PROPERTY USE CLASSIFICATIONS FOR**  
**COMMERCIAL OR INDUSTRIAL USERS**

<u>Assessor Use Code</u>	<u>Description</u>	<u>Percentage of SFR Per 1,000 SF or Unit</u>
1	VACANT LAND PARCEL	0%
5	COMMON AREA PARCEL	0%
6	"HOLD" PARCEL	0%
8	EQUIV TO VACANT	0%
121	PARCEL OF MINIMAL OR NO VALUE	0%
122	SUBSURFACE PARCELS	0%
124	OIL/MINERAL RIGHTS	0%
125	MINERAL RIGHTS EQUIPMENT	0%
126	VACANT COMMON AREA-IMP ALLOC	0%
201	HOME OWNERS EXEMPTION ADD'N	0%
666	UNASSIGNED VACANT	0%
777	SEPTIC TANK PROPERTY	0%
112	STEEL BUILDING	5%
113	MINI-WAREHOUSE	5%
58	NURSERIES (PLANTS)	9%
100	DRIVE-IN THEATER	9%
110	WAREHOUSE - SINGLE TENANT	11%
111	WAREHOUSE - MULTI TENANT	11%
115	RECREATIONAL VEHICLE STORAGE	11%
116	TRUCK TERMINAL	11%
44	LUMBER/CONSTR MATL YARD	18%
71	PARKING GARAGE	18%
72	PAVED PARKING LOT	18%
33	CHURCH BUILDINGS	20%
94	DEPARTMENT STORE	22%
95	DISCOUNT STORE	22%
96	UNATTACHED SINGLE STORE	22%
97	STRIP STORE	22%
74	RECREATION VEHICLE PARK	23%
225	UNITED STATES POST OFFICE	28%
107	LIGHT INDUSTRIAL SINGLE TENANT	30%



**TABLE B (CONTINUED)**

**ANNUAL LOCAL SEWER SERVICE  
CHARGES**

**PROPERTY USE CLASSIFICATIONS FOR  
COMMERCIAL OR INDUSTRIAL USERS**

108	LIGHT INDUSTRIAL - MULTI TENANT	30%
109	RESEARCH AND DEVELOPMENT	30%
114	INDUSTRIAL PARK	30%
40	HEALTH CLUB	33%
88	CONVENIENCE SHOPPING CENTER	36%
36	FINANCIAL BUILDINGS	39%
68	HIGH RISE OFFICE	39%
21	AUTOMOBILE DEALERSHIP	39%
22	AUTO REPAIR SHOP	39%
23	AUTOMOTIVE SERVICE	39%
24	USED CAR LOT	39%
39	GOLF COURSE	39%
57	MOTORCYCLE/SMALL VEHICLE BLDG	39%
83	AUTOMOTIVE SERVICE STATION	39%
84	MARINE SERVICE STATION	39%
86	COMBIN:SERVICE STN/CONVIENCE MKT	39%
65	SINGLE OFFICE BLDGS TO 3 STORIES	40%
66	SMALL OFFICE CENTER	40%
67	OFFICE COMPLEX	40%
69	CONVERTED RESIDENCE TO OFFICE	40%
85	COMBIN: SERV STN/RESTAURANT	42%
48	CONVENIENCE MARKET	44%
37	FRATERNAL BUILDINGS	49%
101	UNATTACHED THEATER	49%
7	MOBILEHOME	50%
55	MOBILE HOME PARK	52%
26	AIRPORT AND RELATED	56%
45	MARINAS	56%
32	CEMETERY & RELATED	56%

**TABLE B (CONTINUED)**

**ANNUAL LOCAL SEWER SERVICE  
CHARGES**

**PROPERTY USE CLASSIFICATIONS FOR  
COMMERCIAL OR INDUSTRIAL USERS**

38	FUNERAL HOME	56%
3	TWO OR MORE SFR	70%
10	DUPLEX ONLY	70%
11	TRIPLEX ONLY	70%
12	04-UNITS ONLY	70%
13	5 TO 16 UNITS	70%
14	17 TO 25 UNITS	70%
15	26-40 UNITS ONLY	70%
16	41-99 UNITS ONLY	70%
17	100 OR MORE UNITS	70%
18	A MIX OF FORMS	70%
19	SFR WITH 1 OR 2 RENTALS	71%
4	MISC IMPROVEMENT	71%
28	BOWLING ALLEYS	71%
92	SKATING RINKS	71%
118	GOVERNMENTAL USE	79%
81	PRE-SCHOOLS, NURSERY OR CARE	80%
82	PRIVATE SCHOOLS	80%
98	STORE WITH OFFICES OR LIV QTR	80%
99	STORE W/ OFFICE UPSTAIRS	80%
47	SUPERMARKET	84%
89	NEIGHBORHOOD SHOPPING CENTER	92%
34	DORMITORY	99%
61	CONVALESCENT HOSPITALS	99%
42	HOSPITAL	100%
2	ONE RESIDENCE	100%
103	CHEMICAL TANK AND BULK STORAGE	100%
104	FOOD PROCESSING PLANT	100%
105	COLD STORAGE PLANT	100%

**TABLE B (CONTINUED)**

**ANNUAL LOCAL SEWER SERVICE  
CHARGES**

**PROPERTY USE CLASSIFICATIONS FOR  
COMMERCIAL OR INDUSTRIAL USERS**

106	FACTORY	100%
119	PUBLIC UTILITY	100%
120	WATER MUTUAL OR COMPANY	100%
888	CONVERSION-COMPOSITE PROP	100%
60	NURSING HOME	103%
62	CONVERTED RES USED AS NURSING	103%
63	LOW RISE RETIREMENT BUILDING	108%
64	HIGH RISE RETIREMENT BUILDING	108%
43	HOTEL	109%
56	MOTELS AND MOTOR HOTELS	109%
50	SINGLE MEDICAL BLDGS TO 3 STORIES	118%
51	SMALL MEDICAL CENTER	118%
52	MEDICAL CENTER COMPLEX	118%
53	HIGH RISE MEDICAL	118%
54	CONVERTED RESIDENCE TO MEDICAL	118%
20	AMUSEMENT PARKS	138%
35	ENTERTAINMENT CENTER	138%
73	RECREATION	138%
224	NIGHTCLUB	146%
90	COMMUNITY SHOPPING CENTER	149%
76	RESTAURANT - TAKE OUT	212%
30	COIN OPERATED CAR WASH	252%
77	RESTAURANT - COFFEE SHOP	424%
78	RESTAURANT - DINNER HOUSE	424%
79	RESTAURANT - CONVERSION FROM SFR	424%
29	CONVENTIONAL CAR WASH	1425%
223	LAUNDROMAT	1563%

**NOTE: Multiply the Table A Single Family Residential Rate by the percentage figure above in order to determine the rate per 1,000 square feet for the commercial or industrial user.**

MISCELLANEOUS

Section 3.01. Application of Ordinance. The provisions of this Ordinance shall be in addition to the provisions of the District's Wastewater Discharge Regulations for use of District's sewage facilities, including provisions for payment of charges or fees related thereto; District's ordinance establishing Sanitary Sewer Service Charges; District's ordinance establishing Fees Concerning Annexations of Territory to the District; and any other District Ordinances and Resolutions not in conflict herewith.

Section 3.02. Exceptions. The provisions of this Ordinance shall apply to all owners of properties within the local sewer service area maintained by the District, including those properties otherwise deemed exempt from payment of taxes or assessments by provisions of the State Constitution or statute, including properties owned by other public agencies or tax-exempt organizations, except as expressly provided herein.

The Board of Directors of the Orange County Sanitation District does further hereby ORDAIN:

Section II. Severability. If any provision of this Ordinance, or the application to any person or circumstances is held invalid by order of Court, the remainder of the Ordinance, or the application of such provision to other persons or other circumstances, shall not be affected.

Section III. Effective Date. This Ordinance shall take effect July 25, 2008.

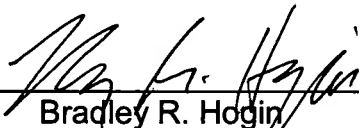
Section IV. Certification and Publication. The Clerk of the Board shall certify to the adoption of this Ordinance, and shall cause a summary to be published in a newspaper of general circulation as required by law.

PASSED AND ADOPTED by a vote of not less than two-thirds of the Board of Directors of the Orange County Sanitation District at a Regular Meeting held June 25, 2008.

  
\_\_\_\_\_  
Chair, Board of Directors  
Orange County Sanitation District

ATTEST:

  
\_\_\_\_\_  
Clerk of the Board

  
\_\_\_\_\_  
Bradley R. Hogan  
General Counsel

STATE OF CALIFORNIA )  
 )SS.  
COUNTY OF ORANGE )


I, PENNY M. KYLE, Clerk of the Board of Orange County Sanitation District, do hereby certify that the above and foregoing Ordinance No. OCSD-38 was passed and adopted at a regular meeting of said Board on the 25<sup>th</sup> day of June, 2008, by the following vote, to wit:

AYES: Jim Ferryman, Chair; Charles Antos; Don Bankhead; David Benavides; Larry Crandall; Bill Dalton; Catherine Driscoll; Rose Espinoza; Rich Freschi; Don Hansen; Patsy Marshall; Darryl Miller; Roy Moore; Joy Neugebauer; Dave Shawver; Christina Shea; Constance Underhill; Mark Waldman; Don Webb; Jim Winder

NOES: Doug Davert; Jon Dumitru; Phil Luebben; Janet Nguyen; Harry Sidhu

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of June, 2008.

  
\_\_\_\_\_  
Penny M. Kyle  
Clerk of the Board  
Orange County Sanitation District