

ORDINANCE NO. OCSD-43

AN ORDINANCE OF THE BOARD OF DIRECTORS OF ORANGE COUNTY SANITATION DISTRICT AMENDING ORDINANCE NO. OCSD-38 TO EXTEND THE STATED EFFECTIVE PERIOD OF THE EXISTING LOCAL SANITARY SEWER SERVICE CHARGES FOR CUSTOMERS RECEIVING LOCAL SANITARY SEWER SERVICE IN FORMER REVENUE AREA 7.

ADOPTING REVISED TABLE A EXTENDING STATED EFFECTIVE PERIOD OF EXISTING LOCAL SANITARY SEWER SERVICE CHARGES AND REVISED TABLE B PROPERTY USE CLASSIFICATIONS

WHEREAS, The former County Sanitation Districts Nos. 1, 2, 3, 5, 6, 7, 11, 13 and 14 of Orange County, California (the "Predecessor Districts"), were nine individual County Sanitation Districts, organized as separate "Revenue Areas" representing distinct geographic regions pursuant to the County Sanitation District Act (California Health & Safety Code Section 4700 *et seq.*). Revenue Area 7 included unincorporated areas of Orange County and a portion of the City of Tustin; and

WHEREAS, By action of the Board of Directors of the Predecessor Districts, pursuant to specific legislation enacted by the California State Legislature in 1996, an application was submitted to the Orange County Local Agency Formation Commission to legally consolidate the nine Predecessor Districts into one single Sanitation District for all purposes. The application was approved, with an effective date of July 1, 1998; and

WHEREAS, As of July 1, 1998, the Predecessor Districts ceased to exist, and one single consolidated County Sanitation District, known as the Orange County Sanitation District ("District"), came into existence in place of the Predecessor Districts. The District was formed to carry on the functions of the Predecessor Districts; and

WHEREAS, The core function of the District is to operate a regional network of trunk sewers that delivers wastewater generated within its jurisdiction to the District's treatment and disposal facilities; and

WHEREAS, the District charges an annual regional sewer service charge to its customers; and

WHEREAS, The District has maintained the local sewers of approximately 18,000 parcels located in former Revenue Area 7; and

WHEREAS, The District, as part of its maintenance and updating of its Master Plan, undertook a comprehensive evaluation and study of its operational and financial needs for the next 20 years, including: a detailed assessment of all types and categories of users; the demands on the system and capacity needs of the system to provide necessary service to the multiple categories of users; the total costs of the existing and future facilities in the system; and alternate methodologies for establishing fair and equitable charges to connect to and gain access to the system. These comprehensive planning, engineering, and financial studies led to the development of an updated Comprehensive 20-year Master Plan of Capital Facilities, entitled "1999 Strategic Plan" ("Master Plan"); and

WHEREAS, The Master Plan, setting forth and identifying the required future development of District Facilities, including financial projections for providing sewer service to all properties within the District's service area, was approved and adopted by the Board of Directors on October 27, 1999 by OCSD Resolution No. 99-21, with updates adopted in 2002 and 2006, following a noticed public hearing, and in compliance with the provisions of the California Constitution and all other applicable laws; and

WHEREAS, Pursuant to Health and Safety Code section 5471, the Board of Directors is authorized to prescribe, revise and collect fees, tolls, rates, rentals or other charges for services and facilities furnished by the District in connection with its sewerage system; and

WHEREAS, On June 25, 2008, the Board of Directors of the District adopted Ordinance No. OCSD-38, establishing local sanitary sewer service charges for customers receiving local sanitary sewer service in former Revenue Area 7 in order to allow the District to recover the reasonable costs to provide local sanitary sewer service to individual properties within former Revenue Area 7; and

WHEREAS, the stated effective period of the local sanitary sewer service charges will expire at the end of fiscal year 2012-2013; and

WHEREAS, On January 23, 2013, the Board of Directors was presented with and has reviewed the District's Wastewater Revenue and Rate Study dated January 2013 prepared by Carollo Engineers, on file with the District, which independently found that increases in the local sanitary sewer service charges are appropriate and reasonable based on an evaluation of the District's revenue needs, projected reserve balances and user rate structure; and

WHEREAS, The District has decided not to increase local sanitary sewer service charges at this time; however, for purposes of ensuring that the District has sufficient revenues and reserves to meet the District's obligations and operations of the local sewer facilities in former Revenue Area 7, it is the intent, by the adoption of this Ordinance, to extend the stated effective period of the

fiscal year 2012-2013 local sanitary sewer service charges identified in Table A of Ordinance No. OCSD-38 and to update the property use classifications identified in Table B; and

WHEREAS, Section 21080(b)(8) of the Public Resources Code states that “the establishment, modification, structuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter” is not subject to CEQA; and

WHEREAS, Section 15273(a) of the California Code of Regulations states that “CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of: (1) Meeting operating expenses, including employee wage rates and fringe benefits, (2) Purchasing or leasing supplies equipment, or materials, (3) Meeting financial reserve needs and requirements, (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter”; and

WHEREAS, pursuant to Health and Safety Code sections 4766 and 5473, the Board of Directors is authorized to elect to have the proposed local sanitary sewer service 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, its general taxes; and

WHEREAS, pursuant to Health and Safety Code section 5473.1, on May 6, 2013, and again on May 13, 2013, Notice of the Public Hearing regarding the proposed local sanitary sewer service charges and the election to have such charges collected on the tax role, which included the date, time and location of the hearing, was published in The Orange County Register, a newspaper of general circulation within the District published in the county where the District is located; and

WHEREAS, on Wednesday, May 22, 2013 at 6:30 P.M., in the District’s Boardroom on the first floor of its Administration Building located at 10844 Ellis Avenue, Fountain Valley, California, the District held a properly noticed public hearing in order to receive and consider comments, including objections, concerning the proposed extension of the stated effective period of the local sanitary sewer service charges and the election to have such charges collected on the tax roll; and

WHEREAS, the Board of Directors has carefully reviewed the Wastewater Revenue and Rate Study dated January 2013, and has considered the public and Board comments, and the oral and written presentation by the District's staff and consultants made at the May 22, 2013 public hearing, as well as any written public comments.

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

**Section I. Findings.** Based upon substantial evidence presented to the Board of Directors, the Board of Directors of District hereby adopts the following Findings supporting the extension of the existing fees adopted pursuant to this Ordinance. The Board of Directors hereby finds:

A. That the extension of the effective period of the local sanitary sewer service charges as identified in Table A herein is appropriate and ensures adequate revenues to finance the acquisition, construction, reconstruction, maintenance, and operation of the local sewer system facilities of the District, and to retire any necessary or prudent debt incurred to finance such improvements in a reasonable manner and over a reasonable period of time.

B. That the revenues derived under the provisions of this Ordinance will be used for (i) the acquisition, construction, reconstruction, maintenance, and operation of the local sanitary sewer system facilities of the District, (ii) to repay principal and interest on debt instruments, and (iii) to repay federal and state loans issued for the construction and reconstruction of said sewerage facilities, together with costs of administration and provisions for necessary reserves.

C. That the local sanitary sewer service charges established by this Ordinance are reasonably related to, and do not exceed the funds required to provide the property-related sewer services, and shall herein be levied on each parcel to allow the District to recover the reasonable costs to provide a service to individual properties which have been improved for different types of uses.

D. That the basis for the respective charge is not based on potential or future use, but rather, is based upon 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 for actual use, consumption, and disposal of water to the District's system in lieu of disposal by other means.

E. That the revenues derived from the local sanitary sewer service charges shall not be used for any purpose other than that for which the charge is imposed.

F. 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 proportional cost of the sewer service attributable to the parcel for which the fee is levied, as provided in California Constitution Article XIII D, Section 6(b).

G. That the local sanitary sewer service charges established herein are an extension of existing fees, and are not a new or increased fee or charge. Therefore, the procedural requirements of California Constitution Article XIII D, section 6(a) do not apply.

H. That the local sanitary sewer service charges adopted herein will not result in an expansion of facilities to provide for growth within or 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.

I. That the Board of Directors is adopting the local sanitary sewer service charges herein to (i) meet operating expenses, (ii) purchase or lease supplies, equipment, or materials, (iii) meet financial reserve needs and requirements, and (iv) obtain funds for capital projects necessary to maintain service within former Revenue Area 7. Therefore, the Board finds and determines, based upon substantial evidence, that the establishment of the local sanitary sewer service charges are statutorily exempt from CEQA, pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273(a) of the California Code of Regulations.

J. 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.

## **Section II. Amendments.**

A. Section 2.02 of Ordinance No. OCSD-38 is hereby deleted, effective June 30, 2013, in its entirety and replaced, effective July 1, 2013, with the following:

### **"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 last Local Sewer Service Charge identified for fiscal year 2012-13 in Table A shall be extended and shall remain in effect for each fiscal year thereafter unless otherwise amended by the Board of Directors. 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."

B. Table A of Ordinance No. OCSD-38 is hereby deleted, effective June 30, 2013, in its entirety and replaced, effective July 1, 2013, with the following:

**"TABLE A**

**ANNUAL LOCAL SEWER SERVICE CHARGES**  
**RESIDENTIAL USERS**

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

SFR = SINGLE FAMILY RESIDENTIAL  
MFR = MULTI FAMILY RESIDENTIAL

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

\*\* The charges identified for 2012-13 shall continue and remain in effect for each fiscal year thereafter unless otherwise amended by the Board of Directors."

C. Table B of Ordinance No. OCSD-38 is hereby deleted, effective June 30, 2013, in its entirety and replaced, effective July 1, 2013, with the following:

**TABLE B**  
**ANNUAL LOCAL SEWER SERVICE CHARGES**

**PROPERTY USE CLASSIFICATIONS**

<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%
108	LIGHT INDUSTRIAL - MULTI TENANT	30%
109	RESEARCH AND DEVELOPMENT	30%
114	INDUSTRIAL PARK	30%

40	HEALTH CLUB	33%
88	LOW DEMAND 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%
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	AVERAGE DEMAND 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%
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/MOTEL	109%
56	HOTEL/MOTEL	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	HIGH DEMAND CENTER	149%
76	RESTAURANT – LOW DEMAND	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."**

**Section III. Collection of Fees.**

A. Pursuant to the authority granted by California Health & Safety Code Section 5473, and except as otherwise provided in Subparagraph B 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.

**Section IV. Effect of Amendment.** Except as expressly amended in Section II herein and to the extent they have been expressly superseded herein, no other amendments, changes, or modifications are being made to the remaining portions of Ordinance No. OCSD-38. The remaining findings and provisions set forth in Ordinance No. OCSD-38, or portions thereof, not superseded herein shall continue in full force and effect.

**Section V. 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 VI. Effective Date.** This Ordinance shall take effect July 1, 2013.

**Section VII. 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.

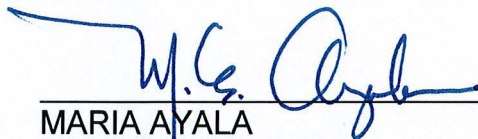
PASSED AND ADOPTED by a vote of not less than two-thirds of the Board of Directors of the Orange County Sanitation District at a Regular Meeting held May 22, 2013.



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TROY EDGAR,  
CHAIR, BOARD OF DIRECTORS  
ORANGE COUNTY SANITATION DISTRICT

ATTEST:



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MARIA AYALA  
CLERK OF THE BOARD  
ORANGE COUNTY SANITATION DISTRICT



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BRADLEY R. HUGIN  
GENERAL COUNSEL

