

**SANITARY DISTRICT NO. 1 OF MARIN COUNTY
ORDINANCE NO. 61
An Ordinance Repealing Ordinances
No. 58 adopted August 1, 2006
No. 59 adopted June 5, 2007
and
Enacting this Ordinance Relating to
Sewer Service Charges**

WHEREAS, the sewer service charges of Sanitary District No. 1 of Marin County ("District") must be increased; and

WHEREAS, the District has identified the parcels upon which the charges will be imposed, calculated the amount of the charge to be imposed on each parcel; and

WHEREAS, in compliance with Section 6 of Article XIID of the California Constitution, on March 22, 2012, the District mailed a notice to the record owner of each parcel upon which the increased sewer service charge is proposed for imposition, the basis upon which the amount of the proposed charge was calculated, the reason for the increased charge, together with the date, time, and location of the public hearing on the proposed increase; and

WHEREAS, the District conducted a public hearing on May 10, 2012, to hear comments and consider protests to the proposed increased maximum sewer service charge limits for Fiscal Year 2012-2017; and

WHEREAS, the District held the duly noticed public hearing and considered any and all property owner protests; and

WHEREAS, written protests against the sewer service charges were not presented by a majority of owners of the identified parcels; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15273 of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

WHEREAS in accordance with Article XIII D, Section 6(b), of the California Constitution, the Board finds based upon the reports dated April 19, 2012 and May 8, 2012, prepared by HF&H Consultants, LLC, which is incorporated by reference, that:

A. The revenues derived from the sewer service charges do not exceed the funds required to provide sewer service because the rates are calculated to allow the District to recover its costs.

B. The revenues derived from the sewer service charges will not be used for any purpose other than that for which the charge is imposed because the revenue will be kept in a separate fund used only for costs related to the provisions of sewer service.

C. The sewer service charges do not exceed the proportional cost of the sewer service attributable to each parcel, because they are based upon relevant factors, including without limitation land use classifications, pipe sizes, water volume and flow, and strength.

D. The sewer service charges will not be imposed upon parcels for which sewer service is not available.

E. The sewer service charge will be used for provision of sewer service rather than general governmental services.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF SANITARY DISTRICT NO. 1 OF MARIN COUNTY DOES ORDAIN AS FOLLOWS:

SECTION 1. Definitions.

(a) Agent. An agent means any person specifically authorized to act on behalf of the District.

(b) Board. Board means the Board of Directors of Sanitary District No. 1 of Marin County.

(c) Commercial. Commercial means all non-residential customers including commercial businesses, governmental, and institutional customers, but excluding Commercial High Strength.

(d) Commercial High Strength (HS). Commercial High Strength means commercial customers comprising markets with food preparation, restaurants and other dining facilities, bakeries, mortuaries, dry cleaners, and other businesses discharging high-strength wastewater.

(e) Connection. Connection means any physical connection between any type of piping not owned by the District to any other type of piping which is directly or indirectly connected to the District sewer system.

(f) District. District means Sanitary District No. 1 of Marin County.

(g) District Engineer. District Engineer means the engineer appointed by and acting for the Board and shall be a registered civil engineer.

(h) District Sewer System. District sewer system means any part of the sewage facilities owned and operated by the District.

(i) Fixed Charge. Fixed Charge means the annual charge per parcel charged to all parcels served by the District.

(j) Flow Charge. Flow Charge means the product of the customer's the flow rate times the customer's winter water usage.

(k) Flow Rate. Flow rate means the dollar amount charged per hundred cubic feet of winter water usage.

(l) General Manager. General Manager means the person appointed by the Board to administer and enforce the rules, regulations and ordinances of the District.

(m) Larkspur Sanitation Area. Larkspur Sanitation Area means the portion of the City of Larkspur defined in Exhibit "A" of the Annexation Agreement dated January 6, 1993, by and between Sanitary District No. 1 and the City of Larkspur.

(n) Owner. Owner means the person holding the fee title to any parcel as shown by the official records of the County Recorder of Marin County.

(o) Parcel. Parcel means any lot, piece, or parcel of real property, improved or unimproved, within the territorial limits of the District.

(p) Person. Person means any person, firm, company, corporation, partnership, association, any public corporation, political subdivision, city, county, district, the State of California, or the United States of America, or any department or agency of any thereof. The singular in each case shall include the plural.

(q) Residential. Residential means single-family and multi-family customers.

(r) Sewer Service Charge. Sewer service charge means the charge imposed pursuant to Section 4 of this Ordinance.

(s) Winter Water Usage. Winter water usage means, with respect to the first fiscal year, the two (2) months of winter water usage obtained from the Marin Municipal Water District ("MMWD"), or its successor. In years 2013 and after, four (4) months of winter water usage will be used for the annualized flow figure. MMWD water data is measured in hundred cubic feet (CCF) increments.

SECTION 2. Free Services. No facilities or services of the District sewer system shall be furnished to any parcels or to any owner or other person free of charge.

SECTION 3. Sewer Service Charge Imposed. There is imposed upon each parcel connected to the sewer system an annual sewer service charge.

(a) Annual Establishment of Sewer Service Charge. The sewer service charge for each sewer user to be levied each fiscal year for each parcel connected, or required by the District to be connected, to the District sewer system shall be established annually by this Ordinance as set forth in Section 4.

(b) Annual Establishment of Sewer Service Fixed Charge. The sewer service fixed charge for each sewer user to be levied each fiscal year for each parcel connected, or required by the District to be connected, to the District sewer system shall be established annually by this Ordinance as set forth in Section 4.

(c) Annual Establishment of Sewer Service Flow Rate. The sewer service flow charge for each sewer user to be levied each fiscal year for each parcel connected, or required by the District to be connected, shall be stated as a dollar amount per hundred cubic feet of estimated sewer flow and shall be established annually by this Ordinance as set forth in Section 4.

(d) Estimation of Sewer Use. The sewer service flow charge of a parcel upon which the sewer service charge for that parcel is calculated for a fiscal year shall be estimated using, by multiplying by six (6), the winter water usage for that parcel of the two (2) winter season months for the prior fiscal year. One unit of sewer use shall be assigned for each one hundred (100) cubic feet of water use. Annual sewer flow figures are multiplied by flow charges, which differ by customer class.

(e) In years 2013 and thereafter, the sewer service flow charge of a parcel upon which the sewer service charge for that parcel is calculated for a fiscal year shall be estimated using, by multiplying by three (3), the winter water usage for that parcel of the four (4) winter season months for the prior fiscal year.

(f) Where actual monthly water consumption data is not available for a parcel (for example, the parcel is recently connected to a water system), sewer use shall be estimated as the average estimated sewer use for the prior fiscal year of all parcels in the same customer class. For purposes of this section, customer classes shall be: Residential (A1), Commercial (B1) and Commercial High Strength (HS) (B2).

SECTION 4. Maximum Annual Sewer Service Charges. Sewer service charges are the sum of one fixed charge per parcel plus a flow charge.

(a) The annual sewer service charge per sewer user for the **ROSS VALLEY RATE ZONE** shall be as follows:

5-Year Rate Plan

FIXED CHARGE (Rate proposal dollars shown are “not to exceed”)

July 1, 2012 to June 30, 2013	July 1, 2013 to June 30, 2014	July 1, 2014 to June 30, 2015	July 1, 2015 to June 30, 2016	July 1, 2016 to June 30, 2017
\$575	\$440	\$470	\$535	\$590

FLOW RATE (Rate proposal dollars shown are “not to exceed”)

Customer Class	July 1, 2012 to June 30, 2013	July 1, 2013 to June 30, 2014	July 1, 2014 to June 30, 2015	July 1, 2015 to June 30, 2016	July 1, 2016 to June 30, 2017
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Residential (A1) – Flow Rate	\$3.10	\$5.70	\$6.10	\$7.00	\$7.65
Commercial (B1)– Flow Rate	\$6.40	\$7.50	\$8.00	\$9.15	\$10.10
Commercial HS (B2) – Flow Rate	\$8.15	\$9.65	\$10.35	\$11.90	\$13.00

After June 30, 2017, the rates shall continue thereafter in effect on July 1 each subsequent year until further action by the Board.

(b) The annual sewer service charge per sewer user for the **LARKSPUR RATE ZONE** shall be as follows:

5-Year Rate Plan

FIXED CHARGE (Rate proposal dollars shown are “not to exceed”)

July 1, 2012 to June 30, 2013	July 1, 2013 to June 30, 2014	July 1, 2014 to June 30, 2015	July 1, 2015 to June 30, 2016	July 1, 2016 to June 30, 2017
\$780	\$575	\$600	\$675	\$720

FLOW RATE (Rate proposal dollars shown are “not to exceed”)

Customer Class	July 1, 2012 to June 30, 2013	July 1, 2013 to June 30, 2014	July 1, 2014 to June 30, 2015	July 1, 2015 to June 30, 2016	July 1, 2016 to June 30, 2017
Residential (A1) – Flow Rate	\$4.20	\$7.50	\$8.00	\$8.80	\$9.50
Commercial (B1)– Flow Rate	\$8.60	\$9.90	\$10.45	\$11.60	\$12.50
Commercial HS (B2) – Flow Rate	\$11.10	\$12.65	\$13.50	\$15.00	\$16.10

After June 30, 2017, the rates shall continue thereafter in effect on July 1 each subsequent year until further action by the Board.

SECTION 5. Sewer User Classes. The following sewer user classes are as defined by this Ordinance: Residential (A1), Commercial (B1), Commercial High Strength (HS)

(B2). For any other users discharging high strength sewage, the flow rate shall be as determined by the District Manager based on the following unit costs.

Unit Costs	2012-13	2013-14	2014-15	2015-16	2016-17
Per Parcel	\$33.67	\$36.70	\$38.90	\$43.18	\$46.63
Per HCF	\$4.54	\$4.95	\$5.25	\$5.83	\$6.30
Per Pound - BOD	\$0.57	\$0.62	\$0.66	\$0.73	\$0.79
Per Pound – TSS	\$0.46	\$0.51	\$0.54	\$0.60	\$0.65

The unit costs for the Ross Valley Rate Zone are reduced by the amount of the property tax credit.

(a) Inquiry Regarding Assessment of Sewer User Classification. Inquiries regarding the assignment of sewer user classification must be submitted to the District Manager in writing before changes in classification assignment will be made. Any and all costs for testing to determine a sewer user classification shall be the responsibility of the sewer user.

SECTION 6. Non-payment of Sewer Service Charges. Penalties for non-payment of the appropriate sewer service charge shall be assessed in the same amount and in the same manner as penalties on County of Marin ad valorem taxes.

SECTION 7. Election to Collect on Tax Roll. The District continues its election, pursuant to Section 5473 of the Health and Safety Code of the State of California, to have the sewer service charges, for each forthcoming fiscal year collected on the tax roll of the County of Marin, State of California, in the same manner, by the same persons as, and the same time as its general taxes provided and pursuant to Sections 5471 through 5473.11 of the Health and Safety Code of the State of California.

SECTION 8. Refund of Sewer Service Charges. Each owner is responsible for the correctness of the sewer service charges levied against their parcel. Corrections or revisions due to changed circumstances shall not entitle the owner to repayment by the District for prior years' sewer service charges. Similarly, the District shall not backcharge the owner for underpayment of charges due to mistakes or omissions in the assignment of winter water usage. Refunds of charges paid for parcels not connected to the District sewer system shall be made pursuant to Government Code Section 53082. Nothing in this section shall be deemed to preempt any other requirements for the recovery of refunds imposed by State or local law.

SECTION 9. Person Responsible for Payment. The person responsible for payment of all charges shall be the owner of such parcel.

SECTION 10. Effective Date of Sewer Service Charges. Sewer service charges shall become effective against all parcels immediately upon connection to the District sewer system.

SECTION 11. Termination of Service. If any parcel shall become vacant, the applicable annual service charge shall continue to be charged and collected from the owner of such parcel until the District Manager receives a written statement from such owner that such parcel has been disconnected from the District sewer system.

SECTION 12. Appeal of Sewer Use Estimation. In the event the owner of a parcel subject to the sewer service charge believes that the estimation of sewer use calculated by the District pursuant to Section 3 for that parcel for a fiscal year does not accurately reflect the amount of effluent introduced into the sewer system via the parcel's connection to the sewer system, then the owner may file a written appeal of the determination (and the sewer service charge against the parcel) pursuant to the District's Appeal Policy, which shall be adopted by Resolution of the Board. Said Appeal Policy may also include provisions for economic hardship.

SECTION 13. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 14. Repeals. As of the effective date of this Ordinance, the following ordinances of this District are hereby repealed: Ordinance No. 58, adopted August 1, 2006 and Ordinance No. 59, adopted June 5, 2007.

SECTION 15. Effective Date of this Ordinance. This Ordinance shall be published once in the Marin Independent Journal, a newspaper of general circulation published in the District. The effective date of this Ordinance shall be July 1, 2012.

PASSED AND ADOPTED this ___ day of May 2012 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

MARCIA JOHNSON
PRESIDENT OF THE BOARD

Attest:

DR. PETER J. SULLIVAN
SECRETARY OF THE BOARD

