

# SAUSALITO-MARIN CITY SANITARY DISTRICT

## ORDINANCE NO. 96

### AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 93 CONCERNING DISTRICT WASTEWATER SERVICE CHARGES

The Board of Directors of the Sausalito-Marín City Sanitary District, Marin County, California, finds and determines as follows:

A. Ordinance No. 53, "An Ordinance Establishing Wastewater Service Charges" was adopted September 28, 1987.

B. Ordinance No. 78 was adopted June 18, 2002 that determined Ordinance No. 53 is outdated and should be amended in it's entirely.

C. Ordinance No. 91 was adopted June 20, 2013 that amended Ordinance No. 78. **Ordinance No. 93 was adopted July 7, 2014 that amended Ordinance No. 91.**

D. The average daily flow discharged from a typical single family dwelling in the District's territory has the following characteristics:

- i. Flow 200 gallons per day **is assigned as the standard flow rate** per dwelling unit.

**Standard Flow Rate = 1.5 million gallons per day (average dry weather flow)  
7,500 EDUs (total service area EDUs)**

- ii. Strength  
Biological Oxygen Demand (BOD) = 200 mg/Liter  
Total Suspended Solids (TSS) = 290 mg/Liter

Furthermore, for purposes of allocating costs incurred by the District to treat wastewater discharged per day by a typical single-family dwelling, 42.7% of the cost per dwelling unit is due to flow, 26.5% is due to BOD, and 30.8% is due to TSS.

E. It is convenient for the purposes of establishing and imposing the District's annual sewer service charges to set rates based upon a unit of measurement which is expressed in relation to an equal volume of wastewater discharged by a typical dwelling unit taking into account flow and strength characteristics. Pursuant to State Water Resource Control Board, Division of Clean Water Programs, Revenue Program Guidelines, a District customer's wastewater discharge stated in EDUs and incorporating the pertinent District flow and strength characteristics described in recital "D" above may be determined by the following formula:

$$\text{No. of EDUs} = \frac{\text{Daily Flow}}{200} [0.427 + \frac{\text{BOD Concentration}}{200} (0.265) + \frac{\text{TSS Concentration}}{290} (0.308)]$$

However, when consideration is given to the administrative burden and expense that would be required to determine strength factors for individual non-residential customers, it is reasonable to express the strength component of the formula in relation to high, medium, and low strengths stated in terms of the following calculated loading factors:

<u>Strength</u>	<u>Loading Factor</u>
High	2.40
Medium	1.70
Low	1.00

F. It is fair and reasonable to charge residential users for wastewater services based upon a differential flat rate that considers each customer class base costs and volumetric costs associated with providing wastewater service. Each customer class pays the same amount to cover the District's base costs. Each customer class pays a different share of the volumetric costs based on the amount of wastewater they contribute to the system. The differential flat rate charge system provides both revenue stability and achieves substantial proportionality of use on a District-wide basis.

In consideration of the foregoing findings and determinations,

IT IS ORDAINED by the District's Board of Directors as follows:

1. Authority. Pursuant to California Health & Safety Code §6520.5, a provision of the Sanitary District Act of 1923, the District elects to impose sewer service charges for the purposes stated in Section 2 below.

2. Purpose. The purpose of the sewer service charge is to raise revenue for the costs of maintenance, operation, construction, and reconstruction of the District's wastewater facilities used for the collection, conveyance, treatment, and disposal of wastewater, and for other expenditures deemed necessary to conduct the lawful business of the District.

3. Definitions. For the purposes of this Ordinance, the terms listed below have the meanings indicated.

3.1 Connection. Connection means a physical connection between any type of piping not owned by the District to any other type of piping or facility which is directly or indirectly connected to the District's wastewater system. Premises located in the City of Sausalito that discharge to the City's wastewater collection system are deemed to be connected to the District's wastewater system for the purposes of this Ordinance.

3.2 District Wastewater System. District wastewater system means any sanitary sewer or other wastewater facility, which is part of the wastewater collection, treatment and disposal facilities owned and operated by the District.

- 3.3 Dwelling Unit. Dwelling unit means any residence, apartment house unit, condominium or other habitation occupied by a single person or single family and requiring wastewater disposal service; also, any Floating Home vessel which receives direct wastewater disposal services from the District.
- 3.4 Equivalent Dwelling Unit (EDU). An EDU is a service unit measured in relation to the **Standard Flow Rate and strength characteristics assigned of the average daily discharge produced by** to a typical dwelling unit, which are:
  - Standard Flow Rate:** 200 gallons per day
  - Strength:
    - BOD: 200 mg/Liter
    - TSS: 290 mg/Liter
- 3.5 Non-Residential. Means all users other than Residential.
- 3.6 Owner. Owner means the person holding title to any premises as shown by the official records of Marin County or the holder of any possessory interest in publicly owned property.
- 3.7 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 of them. The singular in each case shall include the plural.
- 3.8 Premises. Premises means any lot, piece, or parcel of real property improved or unimproved within the boundary of the District.
- 3.9 Residential. Residential means a place designed or used for residence or dwelling, whether permanent to temporary in nature. Includes single family, multi family and floating home residences and does not include hotels or motels.

4. Customers Subject to Charge. The owners of all premises connected to the District's wastewater system and all premises which are able to connect to the system are subject to the sewer service charge. Those premises which are unable to make a connection are exempt from the sewer service charge. It is the sole responsibility of the premise's owner to notify the District of the grounds for any claimed exemption.

5. Determination of Annual Charges

- 5.1 Residential Customer Sewer Service Charge. Each residential customer shall pay an annual sewer service charge as described below.

- 5.1.1 Residential – Single Family customer's annual sewer service charge for FY 2014/15 through FY 2018/19 shall be the equivalent of one (1.00) EDU.
  - 5.1.2 Residential – Multi Family customer's annual sewer service charge shall be for FY 2014/15 the equivalent of ninety-three hundredths (0.93) EDU and for FY 2015/16 through FY 2018/19 the equivalent of eighty-nine hundredths (0.89) EDU.
  - 5.1.3 Residential – Floating Home customer's annual sewer service charge shall be for FY 2014/15 the equivalent of eighty-four hundredths (0.84) EDU and for FY 2015/16 through FY 2018/19 the equivalent of seventy-six hundredths (0.76) EDU.
- 5.2 Non-Residential Customer Sewer Service Charge. Each non-residential customer shall pay an annual sewer service charge calculated as follows:
- 5.2.1 The customer's annual water usage (or "consumption") shall be determined as provided in Section 7.
  - 5.2.2 The customer's loading factor shall be determined as provided in Section 6.
  - 5.2.3 The customer's EDU shall be calculated by multiplying the customer's annual water usage by the customer's loading factor.
  - 5.2.4 The customer's annual sewer service charge shall be the amount in dollars obtained when the customer's EDUs are multiplied by the applicable annual sewer charge rate as established by the District's Board of Directors, except that in no case shall the charge be less than the charge for one EDU.
- 5.3 Supplementary Charge for Unincorporated Area Customers. Customers whose premises are located in the Marin City Community or in other unincorporated areas of the District for whom the District provides wastewater collection services in addition to wastewater treatment services shall pay an additional charge as specified in this Subsection. The additional charge shall be a dollar amount established by the Board of Directors which represents the annual cost per EDU to provide wastewater collection service to customers in the District's unincorporated areas. The supplementary charge for residential customers shall be calculated by multiplying the customer's number of dwelling units by the annual EDU charge established under this Section. The supplementary charge for non-residential customers shall be calculated by multiplying the customer's number of EDUs from Subsection 5.2.3 by the annual EDU

charge established under this section, but in no case shall the charge be less than the charge for one (1) EDU.

6. Strength Characteristics. Each non-residential customer's premises shall be assigned a loading factor, which represents the strength characteristics of the wastewater discharged by the premises. The loading factors shall be determined from the following table to the extent applicable.

<u>Strength</u>	<u>Loading Factor</u>
High	2.40
Medium	1.70
Low	1.00

Examples of uses which produce high strength wastewater are restaurants and bakeries. Examples of uses which produce medium strength wastewater are delicatessens and markets with delicatessens. Examples of uses which produce low strength wastewater are offices, general retail and institutional occupancies.

In any case where the District determines that the loading factors in the table above do not accurately represent the strength characteristics of the wastewater discharge from a particular premises, (for example, mixed use occupancies), the District will establish a loading factor which best represents the actual conditions in the District's determination.

7. Water Consumption. Subject to the provisions of Subsection 7.5, annual water consumption shall be determined as follows:

- 7.1 The ~~Standard Flow Rate average daily discharge~~ from each dwelling unit is presumed to be 200 gallons per day ~~average daily flow~~ and shall not be based upon measured water consumption or other conditions of occupancy of the dwelling unit.
- 7.2 The EDU determination of annual charges in Section 5 for residential customers has been adjusted for each customer class based on a five year historical average of winter water usage as determined by the District from water use data furnished by the Marin Municipal Water District.
- 7.3 Water consumption for all other non-residential uses, including commercial (such as, for example, motels and hotels) shall be based upon actual metered water consumption (measured in units) determined as follows:
  - 7.3.1 The average monthly water usage for each premises during the two, two-month "Summer" and "Winter" intervals for the District's preceding fiscal year shall be determined by the District from the annual report furnished by the Marin Municipal Water District.

7.3.2 The water usage determined under Subsection 7.3.1 shall be annualized.

7.4 As used in this Section, a "unit" of water consumption is defined as the equivalent of a volume of water measuring one hundred cubic feet.

7.5 The following provisions apply to water consumption by non-residential users.

7.5.1 Upon application to the District by customers maintaining extensive irrigated landscaping or in other situations where it can be conclusively established that the metered water consumption is not a valid measure of the quantity of wastewater discharged, the quantity of wastewater to be used in determining the customer's EDUs shall be determined by the District.

7.5.2 The District may require the installation of District-approved recording and sampling devices or flow meters on the premises for use by the District at the customer's expense. Such devices or meters shall be available for inspection at any reasonable time. Recording devices shall be capable of recording instantaneous and accumulated flows, and sampling devices shall be automatic and capable of twenty-four hour storage and maintenance of temperature between 35 degrees and 40 degrees Fahrenheit and have a 5-gallon capacity as approved by the District. The customer shall be responsible for the maintenance, calibration, repair and replacement of all sampling or recording devices and equipment.

7.6 No credit, adjustment or refund shall be made to any customer because the premises or any portion of them are vacant, unless the premises are disconnected from the sewer system.

7.7 No premises or customers shall be provided District wastewater services without charge or at a reduced charge, **unless approved by the Board of Directors.**

8. Effective Date of Charges. Charges and rates established by this Ordinance shall be effective upon the date specified by the District and shall apply to all premises connected at that time to the District's wastewater system. Premises which are connected to the system after the effective date shall be subject to the sewer service charge effective as of and pro-rated from the date of connection. The charge shall be billed directly in accordance with Section 11 below.

9. Person Responsible. The owner of any premises is responsible for payment of all sewer service charges applicable to the premises. It is the duty of each owner to ascertain from the District the amount and due date of any charge applicable to the premises and to pay the charge when due and payable. It is the duty of all owners of all premises to inform the District immediately of all pertinent

circumstances and/or a change in any circumstances which will in any way affect the applicability of a charge to the owner's premises or the amount of any such charge.

10. Collection of Sewer Service Charges on Tax Roll.

- 10.1 Pursuant to the provisions of Division 5, Part 3, Chapter 6, Article 4 of the Health and Safety Code, but subject to the provisions of this Section, the District elects, as the primary procedure for the collection of sewer service charges prescribed or imposed by the provisions of this Ordinance, to have sewer service charges for each fiscal year collected on the tax roll of the County of Marin in the same manner, by the same persons and at the same time as property taxes, assessments and other charges collected in that manner.
- 10.2 At the beginning of the District's fiscal year, a written report shall be prepared and filed with the District Secretary setting forth a description of each parcel of real property, inside or outside the District, upon which are situated premises which receive wastewater services of the District and the amount of the charge for each parcel for that year, computed in conformity with the charges prescribed by this Ordinance.
- 10.3 The District Secretary shall cause notice of the filing of the report and of the time and place for a public hearing to be published in a newspaper of general circulation with the District. The publication of notice shall be once a week for two successive weeks. Publications shall be made with at least five days intervening between the respective publication dates not counting the publication dates. A minimum of two public notices shall be published in a newspaper circulated more than once a week. In newspapers, which circulate once a week, the public notice shall be published in each circulation for two successive weeks. The period of notice commences on the first day of publication and terminates at the end of the 14<sup>th</sup> day, including in that period the first day of publication.
- 10.4 At the time stated in the notice, the District Board shall hear and consider all objections or protests, if any, to the report and may continue the hearing from time to time. If the District Board finds that protest is made by a majority of separate parcels of property described in the report, the report shall not be adopted and the charges shall be collected separately from the tax roll and shall not constitute a lien against any parcel or parcels of land.
- 10.5 Upon the conclusion of the hearing, the District Board may adopt, revise, change, reduce or modify and charge or overrule any or all protests and/or objections, excepting protests or objections from a majority as described above in Subsection 10.4, and the Board shall make its determination upon each charge as described in the report, which determination is final.

- 10.6 By August 10<sup>th</sup> of each year following the Board's final determination, the District Secretary shall file with the controller of the County for Marin a copy of the report with a statement endorsed over his/her signature stating that the report has been finally adopted by the District in order that the Controller of the County of Marin shall be able to enter the amounts of the charges against the respective lots or parcels of land as they appear on the current assessment roll and in order that the charges may be collected on the tax roll in accordance with the provisions of Sections 5473.5 through 5473.11 of the Health and Safety Code.
- 10.7 Except as provided in section 5473.8 of the Health and Safety Code, the amount of the charges shall constitute a lien against the lot or parcel of land against which the charge has been imposed as of the lien date prescribed by law for property taxes.

11. Direct Billing. If the full amount of any sewer service charges are, for any reason, not collected in accordance with the provisions of Section 10 above, the sewer service charges, or the portion of them not appearing on the tax roll, shall be collected by direct billing of the property owner as provided in this Section. The provisions of this Section shall also apply to sewer service charges accruing after a new connection to the District's wastewater facilities, in which case the annual charge shall be prorated over the period of time from the date of the new connection to the end of the fiscal year.

- 11.1 Billing. The District shall ascertain the amount of each sewer service charge applicable to each premises and shall mail to the owner and/or owner and occupant, within sixty (60) days from the date any sewer service charges become due and payable, a bill for the sewer service charges which are then due and payable. The bill shall be mailed to all persons listed as the owners on the last equalized assessment roll of the County of Marin at the address shown on the assessment roll, or to the successor in interest of the owner and/or occupant, if known. Each bill shall contain a statement that a delinquency in payment for sixty (60) days shall constitute a lien against the lot or parcel against which the charge is imposed and that when recorded it shall have the force, effect and priority of a judgement lien for three (3) years unless sooner released or otherwise discharged. Failure of the District to mail a sewer service charge bill or failure of the owner to receive a sewer service charge bill, shall not excuse the owner of any premises from the obligation of paying any sewer service charge for any premises owned by him.
- 11.2 How Payable. Each sewer service charge to be collected by direct billing shall be due and payable in full at the time of billing; provided, however, if in any fiscal year, a sewer service charge is payable for a period covering eight (8) months, or more, of the fiscal year, the sewer service charge shall be billed in two installments with the first installment covering the period for which a sewer service charge is owned during the first six (6) months of the fiscal year, and the second installment covering the remaining six months of the fiscal year.



- 11.3 Delinquency Date of Sewer Service Charges. Each sewer service charge shall be delinquent if not paid on or before the thirtieth (30<sup>th</sup>) day of the month following the date upon which such sewer service charge became due and payable.
- 11.4 Where Payable. Sewer service charges collected by direct billing shall be payable at the administrative office of the District, as noted in the billing.
- 11.5 Penalties for Non-Payment of Sewer Service Charges, Lien. Whenever a delinquency shall occur for non-payment of sewer service charges, a penalty of ten (10) percent shall attach to the unpaid charges, and for each month that the charges remain delinquent a further penalty of one and one-half percent (1<sup>1</sup>/<sub>2</sub>%) of said basic charge shall be added.

12. Upon adoption of the Ordinance it shall be entered in the minutes of the Board of Directors and it shall be published one time in a newspaper of general circulation in the District.

13. This Ordinance shall be effective as of July 1, 2014.

14. Upon its effective date, this Ordinance supersedes and repeals Ordinance No. 53 and all other ordinances, resolutions, motions and other orders and actions of the Board of Directors to the extent inconsistent with the provisions of this Ordinance. To the extent this Ordinance No. 96, or the sewer service charges adopted herein, is challenged and set aside for any reason, Ordinance No. 91 and No. 93 and the preexisting sewer service charges adopted therein shall be immediately restored and will be effective until further action of the Board of Directors.

15. Adoption of this Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273(a) (1), (2), (3), and (4) of the State CEQA Guidelines, in that the sewer service fee is structured and charged to meet operating expenses, purchase materials, meet financial reserve needs and provide for capital projects necessary to maintain service within the existing service area.

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I certify that the foregoing Ordinance was duly and regularly adopted by the Board of Directors of the Sausalito-Marín City Sanitary District, Marin County, California, at a meeting held on November 3, 2014 by the following vote.

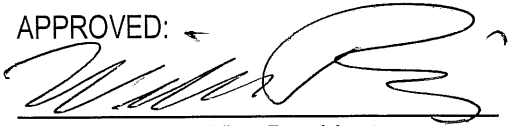
**AYES**, and in favor thereof, Directors: Arnott, Beers, DeLano, Ring

**NOES**, Directors:

**ABSTAIN**, Directors:

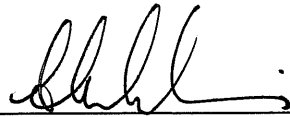
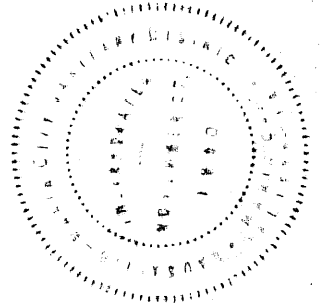
**ABSENT**, Directors: Rheiner

APPROVED: ←



William F. Ring, Vice President

(SEAL)



Helen Lei, Board Secretary