

ORDINANCE NO. 2024-01

AN ORDINANCE OF SANITARY DISTRICT NO. 5 OF MARIN COUNTY RAISING THE CONNECTION FEES TO THE DISTRICT'S SEWER SYSTEM AND AMENDING ORDINANCE NOS. 70-1, 79-1, 06-01, 06-02, 14-01(B) AND ALL OTHER ORDINANCES AS THEY PERTAIN TO THE SETTING OF CONNECTION FEES

WHEREAS, the Sanitary District No. 5 of Marin County ("District") is authorized by the Sanitary District Act of 1923 (Health & Safety Code § 6400 et seq.) to provide public services and facilities related to the acquisition, construction, replacement, maintenance and operation of wastewater collection facilities within the District's service area; and

WHEREAS, the District is empowered to prescribe, revise and collect fees, rates and charges related to said wastewater collection facilities pursuant to Health and Safety Code §6520.5, including sewer connection fees; and

WHEREAS, the District imposes sewer connection fees in accordance with Government Code §66013; and

WHEREAS, the District finds that the sewer connection fees established by this Ordinance are neither an incident of property ownership nor a property-related service having a direct relationship to property ownership and, therefore, are not subject to the requirements of California Constitution Article XIID (also known as Proposition 218); and

WHEREAS, the District finds that the sewer connection fees established by this Ordinance are not imposed as a condition of approval of a proposed development project as defined in Government Code § 66001 and, therefore, are not subject to the requirements for imposing development fees set forth in Government Code § 66000 et seq.; and

WHEREAS, the District finds that the sewer connection fees established by this Ordinance do not exceed the estimated reasonable cost of providing the service for which the fees are imposed, pursuant to Government Code § 66013 and § 66016; and

WHEREAS, the District finds that the sewer connection fees established by this Ordinance are non-discriminatory as applied to all users of the District's wastewater collection facilities and are established upon a rational basis; and

WHEREAS, the owners and occupants of the properties upon which all sewer connection fees established by this Ordinance desire to discharge wastewater to the District's wastewater collection facilities; and

WHEREAS, in 1970, the District's Board of Directors ("Board") established connection fees to the District's sanitary sewer system through passage of Ordinance No 70-1 and amended the connection fee portion of Ordinance No 70-1 in 1979 with the passage of Ordinance No 79-1; and

WHEREAS, in 2006, the Board raised connection fees for Tiburon and Belvedere sewer connections and amended Ordinance Nos. 70-1, 79-1, and all other Ordinances as they pertained to the setting of connection fees through the passage of Ordinance No. 06-01; and

WHEREAS, in 2006, the Board established new connection fees for the Paradise Cove area for residential connections through the passage of Ordinance No. 06-02; and

WHEREAS, in 2014, the Board raised connection fees for Tiburon, Belvedere and Paradise Cove sewer connections through the passage of Ordinance No. 2014-01(B) and

WHEREAS, the District's need for upgraded and improved wastewater collection was required to protect the public health and safety, and to preserve the environment without damage; and

WHEREAS, there is a significant cost to the District for new connections. These costs are in excess to the connection fees previously established, and it has become appropriate to adjust the fee structure to more reasonably reflect the current financial expenditures required and anticipated to support the infrastructure and service

WHEREAS, to demonstrate the reasonableness of the District's sewer connection fees, the calculation method and the basis for determining the connection fees for a fixture unit are presented in a separate report entitled "Marin County Sanitary District No. 5 Connection Fee Update," dated August 6, 2024, which may be referenced by contacting the District; and

WHEREAS, the connection fee is based on the reasonable cost per connection. The reasonable cost is derived based on the value of a connection specific to the collection system and treatment facilities serving parcels in the Districts service area; and

WHEREAS, the sewer connection fees are calculated by dividing the value of the District's sewer facilities at the time the charge is imposed by the total equivalent dwelling units (EDU) accessing those facilities; and

WHEREAS, the District finds that all sewer connection fees established by this Ordinance have been approved by the Board at a noticed public meeting and in accordance with applicable provisions of law; and

WHEREAS, the costs outlined in "Exhibit C, Schedule of Connection Fee Charges" are based on fixture units as defined in Section 128 of Ordinance No 2024-02, and reflect the actual costs to the District for new connections

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SANITARY DISTRICT NO. 5 OF MARIN COUNTY DOES ORDAIN AS FOLLOWS:

1. All of the above Recitals are true and incorporated by reference herein.
2. The first reading of this Ordinance was conducted at a duly held Board of Directors meeting on August 15, 2024.
3. The District provided notice of the merit hearing for this Ordinance by posting such proposed Ordinance, agendizing the proposed Ordinance for the First Reading on August 15, 2024, agendizing the Merit Hearing for the proposed Ordinance for a hearing on September 19, 2024, and publishing a summary of the proposed Ordinance in a newspaper of general circulation, The Ark, prior to the September 19, 2024, hearing on the proposed Ordinance.
4. The District held a public hearing on the proposed Ordinance on September 19, 2024.
5. The Board finds that the costs of connection outlined in Exhibit "C" reflect the actual costs to the District for new sewer connections.
6. The costs reflected in Exhibit "C" are hereby adopted as the new connection fees of the District and these connection fees reflected in Exhibit "C" shall replace all previous connection fees outlined in previous Ordinances including the connection fees outlined in Ordinance Nos. 70-1, 79-1, 06-01, 06-02, and 14-01(B).
7. Exhibit "C" to this Ordinance is hereby incorporated herein by reference to this Ordinance.

8. This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Directors voting for and against the same in *The ARK*, a newspaper of general circulation within the District and published in the County of Marin.

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PASSED AND ADOPTED at a regular meeting of the Board of Directors of Sanitary District No. 5 of Marin County, held on the 19th day of September, 2024, by the following vote.

AYES, in favor thereof, Directors:

NOES, Directors:

ABSENT, Directors:

Approved

Attest:

Omar Arias-Montez
President, Board of Directors

Richard Snyder
Secretary, Board of Directors