

ROSS VALLEY SANITARY DISTRICT

ORDINANCE NO. 102

An Ordinance Repealing Ordinance No. 101 adopted June 19, 2019 and Enacting this Ordinance Relating to Wastewater Utility Service Charges

WHEREAS, the Board of Directors of Ross Valley Sanitary District ("District") desires to update its existing wastewater utility service charge; and

WHEREAS, pursuant to Health and Safety Code sections 6520.5 and 5471 *et seq.*, the District may impose a wastewater utility service charge ("Sewer Service Charge") upon parcels connected to the District's sewer system; and

WHEREAS, the purpose of the Sewer Service Charge is to fund District costs associated with providing sewer service; and

WHEREAS, the District engaged HILDEBRAND CONSULTING, LLC ("Rate Consultant") to prepare a rate study recommending a revision to the Sewer Service Charge that would fairly and equitably spread the District's costs of sewer system operation across parcels using sewer service and would meet the requirements of California law; and

WHEREAS, the Rate Consultant has prepared a rate study entitled "*Ross Valley Sanitary District 2024 Sewer Rate and Capacity Charge Study, March 11, 2024*" ("Study") which is on the District's website, available for public inspection, and incorporated herein by reference; and

WHEREAS, the Study proposed new rates for the Sewer Service Charge, to become effective over a five-year period ("Rate Structure"); and

WHEREAS, on May 22, 2024, the Board conducted a public hearing and considered the Study and concluded that it was appropriate to adopt the Rate Structure as proposed; and

WHEREAS, on June 22, 2011, by Resolution No. 11-1409, the District adopted Guidelines entitled "Submission and Tabulation of Protests" ("Guidelines"); and

WHEREAS, the District caused notice of the Rate Structure and the public hearing to be mailed to the record owner of each parcel subject to the Sewer Service Charge; and

WHEREAS, such notice was given pursuant to (and included all information required by) Section 6 of Article XIII D of the California Constitution ("Proposition 218 Fee Provisions"), the Proposition 218 Omnibus Implementation Act (Section 53750 *et seq.* of the California Government Code) ("Act"), and applicable law; and

WHEREAS, on May 22, 2024, at 5:00 p.m., 1111 Andersen Drive, San Rafael, CA, the District held a full and fair public hearing at which the Board heard all oral and written testimony with respect to the Rate Structure and considered all protests against the Rate Structure; and

WHEREAS, in connection with the hearing, the Clerk of the Board (or designee) accepted written protests against the Rate Structure in the manner set forth in the Guidelines; and

WHEREAS, the Board found that a protest to the changes in the Sewer Services Charges as proposed in the Study has not been made by the owners of a majority of parcels of property of record from the last equalized tax roll and that a majority protest does not exist within the meaning of Article XIII D, Section 6(a) of the California Constitution; and

WHEREAS, the District desires to implement the Sewer Service Charges consistent with the recommendations of the Study; and

WHEREAS, the District desires to continue collecting the Sewer Service Charge on the Marin County property tax roll; and

WHEREAS, the District finds that adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of: meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials; meeting financial reserve needs and requirements; and obtaining funds for capital projects, necessary to maintain service within existing service areas. (CEQA Guidelines, Statutory Exemptions - Section 15273); and

NOW, THEREFORE, THE BOARD OF DIRECTORS OF ROSS VALLEY SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:

SECTION 1. Affirmation of Recitals. Each of the recitals set forth above is true and correct in all respects.

SECTION 2. Approval of Rate Study. The Study is hereby approved by the District in the form on file in the District Office and available for public inspection.

SECTION 3. Definitions:

1. ADU. Accessory Dwelling Unit.
2. Assessors Use Code. Assessors Use Code means the number coding and classification of property in use by the Marin County Assessor.
3. Board. Board means the Board of Directors of Ross Valley Sanitary District.
4. Commercial Sewer Connection. Commercial Sewer Connection means any non-residential, metered Sewer Connection.
5. Customer Class. The District's customer classes include Single Family, Single Family with ADU, Multi-Family, Commercial and Commercial High Strength. Parcels are assigned to one of the customer classes based on the parcel's Assessor's Use Code assigned by the County of Marin. Please refer to Section 9, Sewer Customer Classes, to determine Customer Class.
6. District. District means Ross Valley Sanitary District.
7. District Sewer System. District Sewer System means any part of the sewage facilities owned and operated by the District.
8. Dwelling Unit. Dwelling unit means any residence, portion of apartment house, or other habitation occupied by a single person or single family and requiring sewage disposal services. Dwelling Unit counts for customer parcels are based on County of Marin Assessors Office records.
9. Equivalent Dwelling Unit. Equivalent Dwelling Unit ("EDU") means estimated sewage discharge which represents the typical or average measure of sewage discharge from one Dwelling Unit.
10. General Manager. General Manager means the person appointed by the Board to administer and enforce the rules, regulations, and ordinances of the District, or his or her designee.
11. Larkspur Rate Zone. Contiguous with the Larkspur Sanitation Area, meaning the portion of the city of Larkspur defined in Exhibit "A" of the Annexation Agreement dated January 6, 1993, by and between Ross Valley Sanitary District (formerly Sanitary District No. 1 of Marin County) and the City of Larkspur.

12. Owner. Owner means the person holding the fee title to any property with a Sewer Connection as shown by the official records of the County Recorder of Marin County.
13. Ross Valley Rate Zone. The remaining portions of the District's service area, outside of the Larkspur Rate Zone.
14. Sewer Connection. Sewer 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 and has not been abandoned and/or disconnected pursuant Section 16, Termination of Services.
15. Sewer Service Charge. Sewer Service Charge means the wastewater utility service charge imposed on Sewer Connections for wastewater collection, treatment and disposal services provided by the District.
16. Winter Water Usage. Winter water usage is provided by Marin Municipal Water District ("MMWD") and is defined as one bi-monthly winter billing cycle usually occurring in January and February of each year.

SECTION 4. No Free Service. No facilities or services of the District Sewer System shall be furnished to any Sewer Connection free of charge.

SECTION 5. Sewer Service Charge Imposed. Pursuant to Health and Safety Code sections 6520.5 and 5471 *et seq.*, there is imposed upon each Sewer Connection an annual Sewer Service Charge.

SECTION 6. Establishment of Annual Sewer Service Charges Through Fiscal Year 2028-29. The Sewer Service Charge for each EDU to be levied each fiscal year for each Sewer Connection is hereby established as shown in Section 7, below, unless modified in any particular year pursuant to Section 8 herein.

SECTION 7. Maximum Annual Sewer Service Charges. The maximum annual sewer service charges shall be as follows effective July 1, 2024, and continuing thereafter in effect on July 1 each subsequent year until June 30, 2029, or until further action by the Board:

Proposed Annual Sewer Service Charges with EDU Factor	Effective July 1, 2024	Effective July 1, 2025	Effective July 1, 2026	Effective July 1, 2027	Effective July 1, 2028
Ross Valley Rate Zone					
Single Family	\$1,238	\$1,288	\$1,340	\$1,391	\$1,440
Single Family with ADU	\$1,857	\$1,932	\$2,010	\$2,087	\$2,160
Multi-Family	\$1,114	\$1,159	\$1,206	\$1,252	\$1,296
Commercial Low-Strength	\$1,238	\$1,288	\$1,340	\$1,391	\$1,440
Commercial High-Strength	\$2,897	\$3,014	\$3,136	\$3,255	\$3,370
Commercial minimum*	\$966	\$1,005	\$1,045	\$1,085	\$1,123
Larkspur Rate Zone					
Single Family	\$1,773	\$1,844	\$1,918	\$1,991	\$2,061
Single Family with ADU	\$2,659	\$2,766	\$2,877	\$2,987	\$3,092
Multi-Family	\$1,596	\$1,660	\$1,726	\$1,792	\$1,855
Commercial Low-Strength	\$1,773	\$1,844	\$1,918	\$1,991	\$2,061
Commercial High-Strength	\$4,149	\$4,315	\$4,488	\$4,659	\$4,823
Commercial minimum*	\$1,383	\$1,438	\$1,496	\$1,553	\$1,608

*For commercial accounts with no water usage.

Under no circumstances may the annual increase to the Sewer Service Charge exceed the amounts shown in this Section 7 unless notice is given pursuant to Proposition 218 Fee Provisions, the Act, and applicable law governing property-related fee increases.

SECTION 8. Approval of Sewer Service Charges Below the Maximum Annual Increase. The Board may consider lowering the annual increase to the Sewer Service Charge in any given fiscal year upon review of an updated five-year financial forecast and draft budget for each new fiscal year, if the Board finds that the forecast and budget demonstrate that less than the maximum scheduled Sewer Service Charge increase will achieve sufficient revenue.

SECTION 9. Sewer Customer Classes. Customer parcels are assigned to a sewer Customer Class based on the following Marin County Assessor Use Codes. Future changes or additions made by the Marin County Assessor may be included and utilized by the District without further Board action.

Assessor Use Code	Assessors Use Code Description	Equivalent Dwelling Unit Assignment	Customer Class
00	Vacant	None (see Note 1)	See Note 2
10	Single Family Residential – Unimproved	None (see Note 1)	Single Family
11	Single Family Residential – Improved	One	Single Family or Single Family with ADU
12	Mobile Home	One per dwelling unit	See Note 2
14	Single Family Attached	One per dwelling unit	Multi Family
15	Common Area Parcel	None (see Note 1)	Not applicable
20	Multiple Residential - Unimproved	None (see Note 1)	Multi Family
21	Multiple Residential - Improved	One per dwelling unit	Multi Family
30	Farm	One per equivalent dwelling unit	See Note 2
31	Rural Home	One per dwelling unit	Single Family
32	Agricultural Preserve Contract - Unimproved	None (see Note 1)	See Note 2
33	Agricultural Preserve Contract - Improved	None (see Note 1)	See Note 2

Assessor Use Code	Assessors Use Code Description	Equivalent Dwelling Unit Assignment	Customer Class
36	Open Space Contract - Unimproved	None (see Note 1)	See Note 2
37	Open Space Contract - Improved	One per equivalent dwelling unit	See Note 2
38	Historical Property (Mills Act)	One per equivalent dwelling unit	Single Family
40	Industrial Land - Unimproved	None (see Note 1)	See Note 2
41	Industrial Land - Improved	One per equivalent dwelling unit	Commercial
50	Commercial Land - Unimproved	None (see Note 1)	Commercial
51	Commercial Land - Improved	One per equivalent dwelling unit	Commercial
60	Land Subject to Exemption - Unimproved (churches, schools, etc.)	None (see Note 1)	Commercial
61	Land Subject to Exemption - Improved (churches, schools, etc.)	One per equivalent dwelling unit	Single Family or Multi Family or Commercial (see Note 3)
80	Non-taxable	One per equivalent dwelling unit	Commercial
81	Tax Deeded	One per equivalent dwelling unit	See Note 2
90	Public Utility - Non-taxable	One per equivalent dwelling unit	Commercial
91	Public Utility - Taxable	One per equivalent dwelling unit	Commercial

Note 1 - A Sewer Service Charge is not levied until a dwelling unit or equivalent dwelling unit is established on the property.

Note 2 - These use codes are not currently present in the District's customer base. Should a customer with this used code become active (connect to the sewer system), a determination of Customer Class will be made by the General Manager.

Note 3 - Use code 61 contains a variety of types of properties. Rates are assigned based upon actual property use.

Note 4 - If there is a discrepancy between the Assessor Use Code and the actual property use, the General Manager will determine the appropriate customer class.

SECTION 10. Assignment of Equivalent Dwelling Units. The assignment of EDUs shall be as follows:

1. One Unit Minimum. All Sewer Connections will be assigned a minimum of one EDU.
2. Residential Dwellings. One EDU shall be assigned to each single-family residential Sewer Connection and each Dwelling Unit of a multiple residential building Sewer Connection.
3. Commercial Sewer Connections. For Commercial Sewer Connections, EDUs shall be assigned based on Winter Water Usage and a sewer discharge strength factor. The most recent available bi-monthly Winter Water Usage records shall be used to calculate the number of EDUs to be assigned to said Sewer Connection. EDUs thus calculated shall be rounded to the nearest tenth (and not less than one EDU will be assigned to any Commercial Sewer Connection). Irrigation flows and other flows not connected to the District Sewer System, and therefore not discharging to the District Sewer System, are assigned zero EDUs. The formula used to calculate EDUs for Commercial Sewer Connections is as follows:

$$\text{Number of EDUs} = \frac{\text{Winter Water Usage (in HCF)} \times 748 \text{ gallons per HCF}}{60 \text{ days} \times 205 \text{ gallons per day}}$$

where HCF = hundred cubic feet

4. Commercial High Strength.
 - a. Commercial Sewer Connections that discharge sewage having significantly greater strength characteristics than residential sewage shall be designated as “Commercial High Strength”, which applies to the following types of users: Markets with garbage disposals; Mortuaries; Restaurants; Bakeries; and other such high-strength users as reasonably determined by the General Manager.
 - b. For any other users discharging high strength sewage, the customer classification shall be as determined by the General Manager and confirmed by testing or other rational means.
 - c. Inquiries regarding the assignment of customer classification or EDUs must be submitted to the General Manager in writing before changes in assignment will be made.
5. Commercial Minimum. Those Commercial Sewer Connections with no winter water usage will be assigned 1 EDU and assessed the Commercial Minimum sewer service charge.

SECTION 11. Refund of Sewer Service Charges. Each Owner is responsible for the correctness of the Sewer Service Charges levied against his or her Sewer Connection and, as such, has the sole responsibility for requesting a refund for improper charges. The following terms and conditions apply to requests for refunds.

1. Requests are to be made in writing to the General Manager or his or her designee.
2. Requests must include supporting documents for the timeframe and amount of the refund being requested.
 - a. Documents might include copies of previous years' property tax bills, cancelled checks, or any other document(s) proving payment.
 - b. In no case will a refund be issued for sewer service charges paid more than three (3) years prior to the original written request date.
 - c. Pursuant to Government Code Section 53082, the limitation in (b) will not apply to sewer service charges paid prior to January 1, 1992 if the Owner at that time is the current Owner

on the date of the request.

3. The Owner must allow a District inspector to inspect the Sewer Connection to verify the status of the connection or non-connection to the District Sewer System.
4. Refunds are approved by determination of the General Manager or his or her designee.
5. Appeals of the General Manager's determination may be made by written notice to the Board within ten (10) days of the date of the determination.

SECTION 12. Appeal of Sewer Use Estimation. The Owner of a Sewer Connection subject to the Sewer Service Charge may appeal the estimation of sewer use calculated by the District pursuant to Section 10, Assignment of Equivalent Dwelling Units, as follows:

1. Requests are to be made in writing to the General Manager or his or her designee before December 31 of the fiscal year for which the charges apply.
2. Requests must include evidence of the following:
 - a. Due to the unique or unusual nature of water use on the parcel, the estimation method substantially overestimates the sewer system demand or usage of the parcel relative to other parcels in the District with similar actual sewer demand or use; and
 - b. The Owner could not have avoided the error in estimation by establishing a separately metered water account for any unusual and intentional non-domestic use; and
 - c. Use of the standard estimation method is manifestly unfair under the circumstances.
3. If the General Manager or his or her designee determines that each of the previously stated criteria is true, based on the written appeal and on other evidence provided to or otherwise available to the General Manager, then he or she will reduce the Sewer Service Charge for that parcel for that fiscal year to the amount he or she determines to reflect an accurate estimate of sewer use and shall either transmit a correct charge to the County or issue a refund in the amount of the reduction.
4. Refunds are approved by determination of the General Manager or his or her designee.
5. Appeals of the General Manager's determination may be made by written notice to the Board within ten (10) days of the date of the determination.

SECTION 13. Person Responsible for Payment. The person responsible for payment of all Sewer Service Charges shall be the Owner of such Sewer Connection.

SECTION 14. Penalties for Non-payment. Penalties for non-payment of the appropriate Sewer Service Charge shall be assessed and collected in the same amount and in the same manner as penalties on County of Marin ad valorem taxes.

SECTION 15. Commencement of Sewer Service Charges. Sewer Service Charges shall become effective against all Sewer Connections immediately upon connection to the District Sewer System.

SECTION 16. Termination of Services. If any property associated with a Sewer Connection shall become vacant, the applicable annual Sewer Service Charge shall continue to be charged and collected from the Owner until the General Manager receives a written statement from such Owner that the Sewer Connection has been physically disconnected from the District Sewer System, in a manner that meets the District's Design and Construction Standards and as verified by a District inspector.

SECTION 17. Election to Collect on Tax Rolls or by Direct Billing. The District continues its election to collect the Sewer Service Charges set forth in this Ordinance on the County tax roll at the

same time and manner as general taxes pursuant to Health and Safety Code section 5471 *et seq.* In certain cases, the District may, in its sole discretion, collect the Sewer Service Charge through direct billings to customers.

SECTION 18. 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 19. Effective Date of Sewer Service Charges. The Sewer Service Charges and other provisions contained in this Ordinance shall become effective July 1, 2024, and shall remain and continue thereafter in effect until further action by the Board.

SECTION 20. Repeals. As of the effective date of this Ordinance, Ordinance No. 101 of this District is hereby repealed in its entirety.

SECTION 21. 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. This Ordinance shall be fully effective as of the day of said publication.

PASSED AND ADOPTED THIS 22nd DAY of MAY 2024 by the following vote:

AYES: Boorstein, Gaffney, Kelly, Meigs, Sylla

NOES:

ABSTAIN:

ABSENT:



THOMAS GAFFNEY
SECRETARY OF THE BOARD


MICHAEL BOORSTEIN
PRESIDENT OF THE BOARD