

# ORDINANCE NO. 37-27

## AN ORDINANCE OF THE SANITARY BOARD OF ORO LOMA SANITARY DISTRICT ESTABLISHING CHARGES FOR SERVICES AND FACILITIES FURNISHED BY THE DISTRICT'S SANITARY SEWAGE SYSTEM AND PROVIDING COLLECTION PROCEDURES AND PENALTIES FOR ENFORCEMENT

The Sanitary Board of the Oro Loma Sanitary District does ordain as follows:

### Section 1    **PURPOSE**

The purpose of the sewer service charge is to raise revenue for all costs related to the maintenance and operation of the Oro Loma Sanitary District's (District) sewage facilities used for the collection, treatment and disposal of sewage and industrial waste. This includes waste cost recovery, the renewal and replacement of said facilities, and repayment of principal and interest on bonds. This ordinance also establishes a method of sharing all costs of operation of the District's sewage facilities among the different customer groups of sewer services and setting the method of collection of said charges. The funds derived from the sewer service charge shall be used for only those purposes provided for in Division 5, Part 3, Chapter 6, Article 4 (commencing with Section 5470) of the Health and Safety Code of the State of California.

### Section 2    **SEWER SERVICE CHARGE; CLASSIFICATION OF CUSTOMER**

Sewer Service Charges are hereby prescribed for all premises connected directly or indirectly to the District's sewage facilities. Customers using said facilities are hereby divided into the following classifications:

#### A.    **Residential Customers:**

- Single-Family Dwellings
- Multiple-Family Dwellings
- House Trailers/Mobile Homes

The sewer service charges for residential customers shall be charged based on the number of dwelling units, and collected predominately by the tax roll of the County of Alameda.

#### B.    **Commercial/Light Industrial/Institutional Users:**

The sewer service charges for this class of customers shall be charged based on water usage measured in hundreds of cubic feet, and collected on the water bill by the East Bay Municipal Utility District (EBMUD).

#### C.    **Schools Customers:**

The sewer service charges for this class of customers shall be charged based on water usage measured in hundreds of cubic feet, and collected on the water bill by EBMUD.

#### D.    **Significant Industrial Users:**

The sewer service charges for this class of customers shall be charged based on water usage measured in hundreds of cubic feet, Biochemical Oxygen Demand (BOD) per pound and Suspended Solids (SS) per pound, and collected by individual invoice prepared on a quarterly basis by the District.

In addition, the District may levy to certain significant commercial/industrial users the cost of activities related to issuing special discharge permits, costs of monitoring and sampling, and other charges for wastewater discharge.

E. **Special Sewer Charges:**

The District reserves the right to charge special service charges for sewer services provided to a customer in unique situations or circumstance, as deemed appropriate for the public good.

**Section 3 DEFINITIONS**

Unless the context specifically indicates otherwise, the meanings of terms used in this Ordinance are applicable for this Ordinance only and do not necessarily correspond to definitions that may be used by city or county zoning, planning, or assessment designations and shall be as follows:

- A. **“Annual Monitoring Service Fee”** shall mean an annual charge imposed by the District on Significant Industrial, Intermediate, or Minor Users for costs associated with the periodic monitoring of wastewater discharge from their facilities, and compliance with the District’s “pretreatment” Ordinance 39.
- B. **“BOD” (Biochemical Oxygen Demand)**, a measurement of the strength of wastewater, shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures five days at 20 degrees Celsius; expressed in terms of weight per unit volume, milligrams per liter (mg/l) or PPM (parts per million).
- C. **“Commercial/Light Industrial/Institutional Users”** shall mean a class of customers that are paying sewer service charges based on the consumption of water in hundreds of cubic feet used and discharged from any premises used for commercial or business purposes, including public and institutional facilities. For the current sewer service charge for this class of customers, see Exhibit A.
- D. **“Customer”** shall mean any person, firm, company, partnership, association, private, public or municipal corporation, or governmental or public entity.
- E. **“District”** shall mean the Oro Loma Sanitary District; its governing body is the Sanitary Board (the Board)
- F. **“District General Manager”** shall mean the General Manager of the District or his/her duly authorized representative.
- G. **“Flow”** shall mean the rate at which liquid moves. For the purpose of sewer service charges, calculation of the flow is measured in hundreds of cubic feet of water used.
- H. **“House Trailers/Mobile Homes”** shall mean a form of housing units built in factories, rather than on site, fitted with strong trailer frames, axles, wheels, and tow-hitches, to retain the ability to be moved, then taken to the place where they will be occupied, often a rented lot, and left there permanently.
- I. **“Intermediate User”** shall mean an industrial user or non-residential user of the District’s wastewater disposal system whose wastewater discharge does not fall within the requirements

for a significant industrial user, yet requires sampling and/or monitoring for calculating sewer service charges and to verify compliance with the Ordinance and permit conditions.

- J. **“Lift Station Charge”** shall mean a class of customers required to pay additional annual sewer service charges relating to the operation and maintenance, and other necessary costs, connected with facilities which pump and dispose of the sewage from a particular area to the main sewer.
- K. **“Minimum Charge”** shall mean that the District requires that all customers connected to the District’s sewer system pay a minimum annual sewer service charge as determined by the Sanitary Board.
- L. **“Minor User”** shall mean an industrial or non-residential user of the District’s wastewater disposal system whose sewer service charge is calculated on a volume basis and/or wastewater discharge monitoring is conducted to verify compliance with the Ordinance and permit conditions.
- M. **“Miscellaneous”** shall mean premises used for a purpose which is unlike residential or commercial, or industrial or institutional for which a specific sewer service charge cannot be fixed other than by taking into consideration rate of flow of sewer discharge or water use and quality of discharge.
- N. **“Multiple-family dwelling”** shall mean any premises designed, improved, or used as a residence for two or more families living independently of each other in two or more structurally joined dwelling units with separate entrances; this term shall include apartment houses and duplexes, but it shall not include hotels, motels, dormitories, or similar structures. Customers in this category are charged an annual sewer service charge as defined in Exhibit A.
- O. **“Monitoring Fee”** shall mean additional charges imposed by the District to cover additional costs for sampling industrial waste water discharge strength, and local limit, state and federal discharge compliance.
- P. **“Premises”** shall mean any house, habitation or other structure requiring sewage disposal service.
- Q. **“Pump Area”** shall mean any group of customers whose wastewater must be lifted by pump to be introduced into the District’s gravity system.
- R. **“Residential”** shall mean classes of customers which are paying annual residential sewer service charges. It is further divided into the following categories: Single Family Dwelling, Multiple Family Dwelling, House Trailers/Mobile Homes.
- S. **“Resampling/ Re-Inspection Fee”** shall mean a special fee imposed by the District to confirm compliance with District discharge standards. The fee includes grab sample, composite sample, site visits and reinspection.
- T. **“Rates and Charges”** shall mean fees, rates, or other charges for services and facilities furnished by the District in connection with the cost of operation of the sewer system.

- U. **“Rebates”** shall mean the amounts of monetary credit given to commercial, industrial and other accounts that use and/or redirect water for non-sanitary sewer disposal from their properties.
- V. **“Refunds”** shall mean the amounts of monetary reimbursement given to any sewer customer for charges which were erroneously levied and paid, limited to the maximum of the previous three years.
- W. **“SS” (Suspended Solids)**, a measurement of residual solids, a method for the determination of sewage strength and treatment plant efficiency, can be measured by laboratory filtering, expressed in terms of weight per unit volume, milligrams per liter (mg/l), or PPM (parts per million).
- X. **“Schools Customers”** shall mean a class of customers which are paying a sewer service charge rate for discharging to the District’s sewer system according to the rate defined for this class of customer in Exhibit A.
- Y. **“Significant Industrial Users”** shall mean an industrial user of the District’s wastewater disposal system who (1) has a discharge flow of 25,000 gallons or more of process wastewater per average work day, or (2) has a flow greater than 5% of the flow in the District’s wastewater treatment plant, (3) is a categorical industry subject to categorical Pretreatment Standards, or (4) has in its wastes toxic pollutants in toxic amounts as defined in the standards issued under Section 307 of the Federal Water Pollution Control Act, or is found by the District to have significant impact, either singly or in combination with other contributing industries, on the District wastewater system, the quality of District sludge, the system’s effluent quality, or air emissions generated by the system. This class of customers is paying sewer service charges based upon actual flow, BOD and SS loadings. There are additional fees connected with an annual permit, annual monitoring, inspection and other services provided by the District, as required to comply with local, state and federal laws.
- Z. **“Significant Industrial User” (Categorical)** – as defined by 40 CFR 403.6(a).
- AA. **“Significant Industrial User” (Non-Categorical)** – as defined by 40 CFR 403.6(a).
- AB. **“Single-family Dwelling”** shall mean the premises designed, improved or used as a residence for one family only and for no other purpose.
- AC. **“Special Discharge Permit”** shall mean fees imposed by the District on a special class of customers and it covers the costs associated with the inspection of discharge from groundwater remediation projects, swimming pools, potable water storage tanks, and other discharges.
- AD. **“Tax Collector and Tax Roll”** shall mean the County of Alameda Tax Collector who collects general taxes and the District’s annual sewer service charges according to the rates approved by the Sanitary Board.
- AE. **“Treatment Plant”** shall mean the facility owned by the District that is designed to provide treatment of wastewater.

- AF. “User” shall mean any person who contributes or causes the contribution of wastewater into the District’s wastewater system.

**Section 4 RATES AND AMOUNTS**

Sewer Service Charges for all classes of customers, and the fees for Monitoring and Wastewater Discharge Permits shall be those established by resolution of the Sanitary Board. Resolutions adopting or amending such charges may be adopted from time to time, as necessary, and the customer shall be notified as prescribed by law. All Sewer Service charges and fees in place at the time of adoption of this Ordinance shall remain in full force and effect until superseded by the adoption of a resolution establishing new charges and fees.

**Section 5 SIGNIFICANT INDUSTRIAL USERS - ADDITIONAL PROVISIONS**

The following are additional provisions applicable to the computation of the sewer service charge for Significant Commercial/Industrial and miscellaneous customers:

- A. Billing for sewer services shall be on a periodic basis, based on the water consumption and average BOD and SS samples periodically extracted from the customer’s wastewater facilities.
- B. The District or the customer may require the installation of District-approved recording and sampling devices, or sewage 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 24-hour storage and maintenance of temperature between 35 and 40 degrees Fahrenheit and have a five-gallon capacity. In the event of installation as described above at the request of the customer, said customer shall be responsible for any damage or expense in repair or replacement.

**Section 6 POWER TO INSPECT PREMISES**

In order to effect the powers of this Ordinance, and pursuant to Section 6523.2 of the Health and Safety Code of the State of California, the District’s General Manager and his authorized representatives are hereby given the power and authority to enter upon private property for the purpose of inspection and maintenance of sanitary and waste disposal facilities, including, but not limited to, ascertaining the nature of such premises, the type of activities carried on therein, the number of plumbing fixtures situated therein, and any other facts or information reasonably necessary to ascertain the applicability of any District charges to such premises, or the amount of such charges. In particular, readings of water meters may be taken where the said charge is based upon the amount of water consumed or used in said premises.

**Section 7 ENFORCEMENT**

In the event of the failure of any owner to pay when due any sewer service charges, applicable to premises owned by him, the District may enforce payments of such delinquent charges in any of the following manners:

- A. The District may have such premises disconnected from the sanitary sewer system. In the event such disconnection should create a public hazard or nuisance, the District’s General Manager or his representatives may enter upon the premises for the purpose of doing such things as may be reasonably necessary to alleviate or remove such hazard or menace. The owner of such premises shall have a duty to reimburse the District for all expenses incurred by

District in disconnecting any such premises, or in doing other things authorized by this Section; and no reconnection shall be made until all such charges are paid.

- B. The District's General Manager may institute action in any court of competent jurisdiction to collect any charges which may be due and payable in the same manner as any other debts owing to the District may be collected.
- C. Any and all delinquent payments may be placed on the tax roll, and collected with property taxes, as hereinafter provided.
- D. Such other action may be taken as may be authorized by law and by the Board.

Section 8    **VACANCY**

No credit, adjustment, or refund will be made to any customer because the premises or any part thereof are vacant unless said premises are disconnected from the sewer system.

Section 9    **REFUNDS**

When any refund becomes due and owing by virtue of action of this Board, or by virtue of any error made in ascertaining charges applicable to any customer, the District's General Manager is authorized to approve the refund for a retroactive period not to exceed three (3) years. The District's policy is not to pay any interest of any kind on refunds or claims.

Section 10    **REBATES**

Certain District commercial and industrial customers use large amounts of potable water, but only a portion of the water is directed to the public sewer. The actual amount of water directed into the public sewer is determined by a sub-meter system. Businesses in this situation are eligible for rebates pursuant to District Standard Procedure III.A.3, Rebating Commercial and Industrial Sewer Service Fees.

Section 11    **ADJUSTMENTS**

It is the intent of the provisions of this Ordinance, in establishing different sewer service charges for different categories of customers, to reflect the benefit from such service to each customer so that those who receive greater benefits, or those who impose heavier burden upon the system because of higher flow, or the quality of the discharge, pay a higher charge. If, in respect to any customer, this Board should find that the charge is inequitable, or unfair because of unusual circumstances, it may establish a **special service charge** for such customer, differing from those otherwise established which will bear a closer relationship to the benefit received from use of the District's system. Such special charge may be established by resolution or agreement, but may be revoked at any time by the Board whenever it finds that continuation thereof would be inequitable or unfair under the circumstances then prevailing.

The owner or occupant of any premises who, by reason of special circumstances, believes that the applicable District rates are unjust or inequitable as applied to his/her premises, may make written application to the Board, stating the circumstances and requesting a different basis of charges for such premises. If such application be approved, the Board may by resolution fix and establish other rates for such premises to be effective as of the date of such application.

**Section 12 FUTURE CONNECTIONS**

With respect to premises connected directly or indirectly to the District's sewage facilities subsequent to the effective date of this Ordinance, the applicable sewer service charges established herein, including future amendments and revisions, shall be assessed upon issuance of the Sewer Permit.

**Section 13 DUE DATES OF CHARGE**

Sewer service charges shall become due and payable at the end of the period for which the bill for District sewer service is rendered. Opening and closing bills for less than the billing period may be prorated. Payment of sewer service charges for new construction or connections shall be paid at the time the Sewer Permit is issued. In subsequent years, charges shall be collected either on the Alameda County Tax Roll for residential customers, on the EBMUD water bill for nonresidential customers, or by Oro Loma Sanitary District invoice.

**Section 14 DELINQUENCY DATE**

Except as otherwise provided elsewhere in this Ordinance, each sewer service charge, including charges based on water use, shall be delinquent if not paid on or before the thirtieth (30th) day immediately following the date upon which the bill for such charge is mailed by District or its designated collection agency.

**Section 15 WHERE PAYABLE**

Except as otherwise provided elsewhere in this Ordinance, all sewer service charges shall be payable at the locations noted on the billing, or as otherwise determined by the District.

**Section 16 PERSONS RESPONSIBLE**

The owner of any premises is and shall be responsible for payment of any and all sewer service charges applicable to premises owned by him. It shall be and is hereby made the duty of each such owner to ascertain from the District's General Manager the amount and due date of any such charge applicable to premises owned by him and to pay such charge when due and payable. It also shall be and is hereby made the duty of all owners of all premises to inform the District's General Manager immediately of all circumstances, and of any change or changes in any circumstances, which will in any way affect the applicability of any charge to premises owned by him/her or the amount of any such charge.

**Section 17 PENALTIES FOR NON-PAYMENT – LIEN**

Except as otherwise provided in this Ordinance for collection of sewer service charges on the tax roll or along with other utility charges, whenever a delinquency shall occur for non-payment, a penalty of fifteen percent (15%) shall attach to the delinquent charge, and for each month that such charge remains delinquent, a further penalty of one and one-half percent (1½ %) of said based charge shall be added. After delinquency for 30 days, such unpaid charges and penalties shall constitute a lien upon the lot or parcel of land against which the charge was levied.

**Section 18 COLLECTION OF RESIDENTIAL SEWER SERVICE CHARGES ON TAX ROLL OF COUNTY OF ALAMEDA**

The Board elected, pursuant to the provisions of Division 5, Part 3, Chapter 6, Article 4, of the Health and Safety Code of the State of California, and, as an alternative procedure for the collection of some or all of residential sewer service charges prescribed or imposed by the provisions of this Ordinance, to have residential sewer service charges for each fiscal year collected on the tax roll in the same manner, by the same persons (County of Alameda) and at the same time as, and together with and not separately, from general taxes. As such, some or all annual District residential sewer service charges placed on the

tax roll of the County of Alameda shall become due and payable in the following installments: one-half thereof on November 1st of each year, and one-half thereof on the following February 1st of each year.

The first installment, due on November 1st of each year, is considered delinquent if not paid by 5:00 P.M. on December 10th of each year. The second installment, due February 1st of each year, is considered delinquent if not paid by 5:00 P.M. on the following April 10th of each year.

The annual sewer service charges for any and all governmental or public parcels, or for any parcel which is not subject to taxation on the tax roll, shall be collected in accordance with other provisions of this Ordinance.

The annual sewer service charges for all residential customers to be billed for the current fiscal year on the Alameda County Tax Roll should be calculated based on the rates approved by Board resolution.

The owner of the property served by the Oro Loma Sanitary District is responsible for payment of the annual sewer service charges regardless of whether or not the owner utilizes any services for sewage disposal on the premises. The charges made herein are for the fiscal year beginning July 1st and ending the following June 30th.

**Section 19 COLLECTION OF SEWER SERVICE CHARGES BY AND ON EAST BAY MUNICIPAL UTILITY DISTRICT WATER BILLS BASED ON QUANTITIES OF WATER CONSUMED**

The Board elected, pursuant to the provisions of Division 5, Part 3, Chapter 6, Article 4, of the Health and Safety Code of the State of California, and, as an alternative procedure for the collection of some or all of the sewer service charges prescribed or imposed by the provisions of this Ordinance, to have such sewer service charges based in part upon quantities of water consumed, for the purpose of facilitating the computation of such charges and reducing the administrative cost thereof. The District, by written agreement, authorized and empowered the East Bay Municipal Utility District (EBMUD) to bill and collect on behalf of the District for all sewer service charges which cannot be collected on the tax rolls of County of Alameda and/or are based on the quantities of water consumed.

The system for billing, record keeping, and collection of the District's sewer service charges uses policies and procedures adopted by EBMUD for handling of its own accounts shall apply to the collection of District charges as follows:

- A. The District's sewer service charges will be billed by EBMUD according to the rates and fees established by Board resolution on the same monthly or bi-monthly basis as the related EBMUD charges.
- B. Interest and penalties or other delinquent charges, if any, imposed by the District in connection with its sewer service charges, shall not be billed or collected by EBMUD, and shall be invoiced and collected directly by the District.
- C. The owner of the property for which sewer services are made available and charges are collected by EBMUD, regardless of whether or not the owner utilizes any services for sewage disposal on the premises, is responsible for all payments of current and delinquent fees, and any processing and/or legal fees as specified in Section 19 of this Ordinance.



**Section 20 REPEALER**

Ordinance No. 37-26, as amended, is hereby repealed.

**Section 21 GOVERNMENTAL OR PUBLIC PREMISES**

The provisions of this Ordinance shall apply to governmental or public premises, as well as to premises which are not governmental or public premises. As used herein, the terms "governmental or public premises" means and includes premises which are owned, controlled or used by (1) the United States Government or any department or agency thereof, (2) the State of California or any department or agency thereof, (3) any city, county or town or any of their departments or agencies, (4) a school, (5) any other governmental or public entity.

This Section is merely explanatory and declaratory of the existing provisions of this Ordinance.

**Section 22 SEVERABILITY**

If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, unconstitutional, or unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance. This Board hereby declares that it would have passed the provisions of this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared invalid, unconstitutional or unenforceable.

**Section 23 EFFECTIVE DATE**

Upon adoption, this Ordinance shall be entered in full in the minutes of the Sanitary Board, shall be posted for one week in three (3) public places within the District, and shall be published once in The Daily Review, a newspaper of general circulation within the District, and shall take effect one week following its posting and publication, whichever occurs later, but not prior to July 1, 2011.



I certify that the forgoing is a full, true and correct copy of an Ordinance passed and adopted at a meeting of the Sanitary Board of the Oro Loma Sanitary District duly held on the 7th day of June 2011, by the following vote of the members thereof:

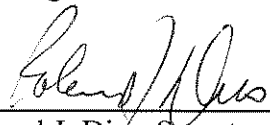
**AYES**, Members: Becker, Dias, Kerr, Sidari

**NOES**, Members: Landis

**ABSENT**, Members: None

  
s/ Howard W. Kerr, President

Countersigned:

  
s/ Roland J. Dias, Secretary