

ORDINANCE NO. 2973

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING INCREASES TO THE RATES FOR ITS SEWER SERVICE CHARGES.

WHEREAS, the City pays the Inland Empire Utilities Agency ("IEUA") to treat wastewater discharged and collected within the City; and

WHEREAS, the City determined to undertake a rate study to analyze the revenue requirements, and the rate structure necessary to proportionately allocate the costs of providing sewer services to its sewer customers, including the cost of the treatment of City sewer services by the IEUA; and

WHEREAS, the rate study demonstrates that existing sewer system revenues are and will be insufficient to cover: (i) current and projected operations and maintenance costs of the City's sewer system (the "System"); and (ii) the capital infrastructure improvements needed to repair, replace, and update the System; and

WHEREAS, a report of the results of the rate study (the "Rate Report"), attached hereto as Exhibit "A" and by this reference incorporated herein, has been prepared which includes the proposed rates for the sewer service charges and documents the estimated and reasonable costs of providing sewer services to property owners and tenants directly liable for payment of such service fees (collectively "customers") in the City; and

WHEREAS, the findings and determinations contained herein are based upon the Rate Report documenting the estimated reasonable costs of providing sewer services to customers in the City; and

WHEREAS, the rate structure for sewer service charges is comprised of two components: (i) a charge for capital replacement, operations and maintenance, billing, customer service, and other related costs ("City Charge"); and (ii) a charge for wastewater treatment ("IEUA Charge"); and

WHEREAS, the City has determined to: (i) adopt a two-year schedule of rate increases to the City Charge; and (ii) authorize a two-year schedule of rate increases to the IEUA Charge for the cost of any future rate increases adopted by the IEUA Board of Directors and imposed on the City for the treatment of sewer discharged and collected within the City (each such rate increase by IEUA is referred to herein as a "Pass Through"); and

WHEREAS, the schedule of proposed rates for the sewer service charges is attached hereto as Exhibit "B" and by this reference incorporated herein and by this reference made an operative part hereof; and

WHEREAS, the City made available to the public the Rate Report documenting the estimated costs required to provide the sewer services for which the fees are proposed to be increased and the revenue sources anticipated to provide such services; and

WHEREAS, the City Council hereby finds and determines the following with regard to the proposed rate increases to the sewer service charges:

1. The revenues derived from the proposed sewer service charges will not exceed the funds required to provide the sewer services and shall be used exclusively for the System;
2. The amount of the proposed sewer service charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition;
3. The proposed sewer service charges will not be imposed on a parcel unless the sewer services are actually used by, or immediately available to, the customer of the parcel;
4. The proposed sewer service charges will not be used for any other purpose than that for which they are imposed;
5. The proposed sewer service charges are not levied for general governmental services;
6. The proposed sewer service charges are not calculated or developed on the basis of any parcel map, including an assessor's parcel map, but are based upon reasonable estimates of the demand placed upon the City in its role as a provider of the sewer services; and
7. The proposed sewer service charges represent increases in the charges needed to operate sewer collection and treatment facilities; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution Article XIII D, Section 6 ("Article XIII D"):

1. The City identified the parcels upon which the increased sewer service charges are proposed to be imposed, and calculated the amount of the fees or charges proposed to be imposed on each parcel;
2. On September 19, 2013, the City mailed written Notice to customers of each parcel upon which the proposed increase to the sewer service charges are proposed for imposition, which explained: (a) the amount of the charges; (b) the basis on which they were calculated; (c) the reason for the increases; and (d) the date, time, and location of the public hearing on the proposed increases; and

3. On November 5, 2013, (more than 45 days after mailing the Notice), the City conducted a public hearing and considered all written protests against the proposed increases to the sewer service charges; and

4. At the conclusion of the public hearing, written protests against the proposed increases to the sewer service charges were not presented by a majority of customers subject to the proposed charges; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the City Staff has determined that the amendments to the Municipal Code, and the increases in sewer service charges are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines because: (a) the increased charges are for the purpose of meeting operational and maintenance expenses of the aforementioned services; and (b) the charges constitute the creation of a funding mechanism/other governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the recitals discussed above are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. The current rates for the City sewer service charges as set forth in Exhibit B shall remain in full force and effect in accordance with the schedule set forth in Exhibit B. Commencing January 1, 2014, and January 1, 2015, respectively, the City Council hereby authorizes and establishes the rates for the City Charge component of the sewer service charges at the rates and in the amounts as set forth in Exhibit B.

SECTION 3. Except as otherwise authorized and provided in this Section 3, the current rates for the IEAU Charge as set forth in Exhibit B shall remain in full force and effect. The City Council hereby authorizes the imposition of future rate increases to the IEUA Charge component of its sewer service charges required as a result of any Pass Through. Such Pass Through rate increases may be imposed annually for a two-year period, beginning on July 1, 2014, and July 1, 2015, respectively, at the rates, in the amounts, and in accordance with the authorizations and limitations set forth in Exhibit B.

SECTION 4. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the sewer service charges set forth herein.

SECTION 5. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part

thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 6. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 7. A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on November 5, 2013, and thereafter adopted at a regular meeting of the City Council held on November 19, 2013.

SECTION 8. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

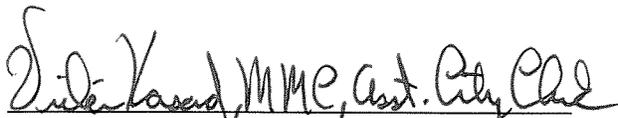
SECTION 9. City staff is directed to file a Notice of Exemption within five (5) days of the adoption of this Ordinance.

SECTION 10 The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

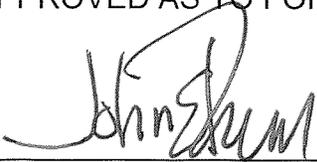
PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of November 2013.

  
\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

  
for \_\_\_\_\_  
MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY



**EXHIBIT B TO ORDINANCE NO. 2973  
RATE SCHEDULES**

(a) The rate structure for City sewer service charges is comprised of two components: (1) a charge for capital replacement, operations and maintenance, billing, customer service, and other related costs (“City Charge”); and (2) a treatment charge for costs imposed on the City by Inland Empire Utilities Agency (“IEUA Charge”) that is passed through by the City to its sewer customers.

(b) The monthly charges for sewer services shall be the sum of the IEUA Charge as listed under sub-section (c) below plus the City Charge as listed under sub-section (d) below.

(c) The current rates for the IEUA Charge per equivalent dwelling unit (“EDU”) is \$13.39, and the projected rates for the IEUA Charge per EDU in 2014 and 2015 are \$14.39 and \$15.64, respectively. Future rate increases adopted by the IEUA Board of Directors and imposed on the City for the treatment of wastewater discharged and collected in the City will be passed through to City customers at the rates adopted by IEUA (each such rate increase by the IEUA is referred to herein as a “Pass Through”). Once adopted by the IEUA Board of Directors, the actual Pass Through will be applied to the rates for the IEUA Charges as follows:

1. The IEUA Charge per unit for single-family residential property shall be equal to the charge per one (1) EDU.
2. The IEUA Charge per unit for multiple-family residential property shall be equal to the charge per seven tenths of one (0.7) EDU.
3. The IEUA Charge for non-residential customers shall be equal to the charge per one (1) EDU times the customer’s number of EDUs.
4. Notwithstanding the forgoing, any increase in the rates to the IEUA Charge above the projected rates set forth in the table below shall not exceed five percent (5% per year), and in no event shall such rates be increased in any year as a result of a Pass Through by more than the cost of providing sewer service. Prior to implementing any increase in the IEUA Charge as a result of a Pass Through, the City will provide written notice of the rate increase to customers not less than 30 days prior to its effective date.

(d) The rates for the City Charge shall be as follows:

Customer Classification	City Charge Rates		
	Current Rates (\$)	Rates (\$) Effective 1/1/2014	Rates (\$) Effective 1/1/2015
Single Family Residential per Month per Unit	12.60	12.98	13.37
Multiple Family Residential per Month per Unit	12.10	12.46	12.84
Non-Residential per Month per EDU (1)	12.60	12.98	13.37

1. The rates for the City Charge for non-residential customers shall be the sum of the per unit charges listed below and the number of EDUs times the EDU rate listed under subsection (d) above. With the exception of hotels and motels, one (1) unit equals one (1) building unit. For hotels and motels, one (1) unit equals one (1) room.

<b>Per Unit Sewer Service Collection Charges for Non-Residential Customers</b>	<b>Current Rates (\$)</b>	<b>Rates (\$) Effective 1/1/2014</b>	<b>Rates (\$) Effective 1/1/2015</b>
Hotel/Motel per room charge	7.90	8.14	8.38
Professional Offices per building unit charge	12.40	12.77	13.16
Other Commercial per building unit charge	30.40	31.31	32.25
Categorical/Significant Industry per permitted unit	113.70	117.11	120.62
Class II Industry per permitted unit	113.70	117.11	120.62
Other Industries per permitted unit	56.90	58.61	60.37