



May 9, 2010

Board of Directors
Ventura Regional Sanitation District
Ventura, California

ORDINANCE NO. VRSD-109 – REGULATING THE USE OF THE MALIBU BAY CLUB ONSITE WASTEWATER TREATMENT SYSTEM AND ADOPTING SEWER SERVICE CHARGES

The Ventura Regional Sanitation District (VRSD) owns and operates the advanced onsite wastewater treatment system (System) serving the Malibu Bay Club (MBC). On April 7, 2011, your Board authorized staff to initiate the Proposition 218 process necessary to implement a rate increase for the Sewer Service Charges associated with this System. Notification pursuant to the requirements for Proposition 218 was mailed to each property owner setting a public hearing at your June 2, 2011, Regular Meeting.

VRSD staff has evaluated the System’s budget, operational plan, and capital improvement program. Revenues derived from the Sewer Service Charges are used for the administration, operation, maintenance, and reconstruction of the System. These revenues are calculated to not exceed the estimated reasonable costs of providing the sewer service. Revenues are also calculated to provide sufficient funding for implementing legally mandated treatment standards.

The proposed Sewer Service Charge increase is \$6.70 per month, which increases the monthly sewer charge from \$66.60 to \$73.30. This increase is necessary to repay advances made from the District’s General Fund to balance budget deficits from prior fiscal years, and to cover increased operating costs, and to make provisions for improvements to the treatment equipment layout. Over the course of this next fiscal year, VRSD staff will continue to work with Regional Water Quality Control Board staff in an effort to reduce some of the monitoring parameters. VRSD staff will also continue to work with the Ventura County Planning Division staff to permit efficient site improvements to the System.

If you have any questions please call me at 658-4674 or email sallycoleman@vrsd.com.

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RECOMMENDATION

It is recommended the Board:

- a. Conduct the first reading, by title only, of Ordinance No. VRSD-109 Regulating the Use of the Malibu Bay Club Onsite Wastewater Treatment System and Adopting Sewer Service Charges; and
- b. Schedule a public hearing for the Board of Directors' June 2, 2011, Regular Meeting to conduct the second reading, by title only, and to consider adoption of Ordinance No. VRSD-109.



SALLY COLEMAN – DIRECTOR OF OPERATIONS

Enc.

APPROVED FOR MAY 19, 2011 AGENDA



Mark Lawler – General Manager

VENTURA REGIONAL SANITATION DISTRICT
MALIBU BAY CLUB ONSITE WASTEWATER TREATMENT SYSTEM

NOTICE OF PUBLIC HEARING

JUNE 2, 2011 @ 8:30 a.m.

PROPOSED SEWER SERVICE CHARGES

The Ventura Regional Sanitation District ("District") will conduct a public hearing on Thursday, June 2, 2011, at 8:30 a.m. on a proposed sewer service charge increase. The hearing will be held at the District's office at 1001 Partridge Drive, Suite 150, Ventura, CA.

The District owns and operates the Malibu Bay Club Onsite Wastewater Treatment System ("System"). The District periodically evaluates the budget, operational plan, and capital improvement program related to the System. Revenues derived from the sewer service charges are used for the operation, maintenance, and reconstruction of the System. These revenues are calculated to not exceed the estimated reasonable costs of providing the sewer service. Revenues are also calculated to provide sufficient funding for implementing legally mandated treatment standards, maintaining high effluent water quality, consistent with the goals and policies of the District and the requirements of State and Federal law. Adjustments in this sewer service charge provide adequate revenues to pay for increased costs of operation and to finance improvements in programs necessary to implement the mandated treatment standards. The proposed sewer service charge increase would become effective July 2, 2011. The monthly sewer service charge per residential unit will increase from \$66.60 to \$73.30.

Any Malibu Bay Club property owner wishing to protest the proposed sewer service charge must do so in writing. Any written protest must be received by the Clerk of the Board prior to 8:30 a.m. on June 2, 2011 at the following address: Ventura Regional Sanitation District, Attention: Clerk of the Board, 1001 Partridge Drive, Suite 150, Ventura, CA 93003. If you have any questions regarding this matter, please call 805-658-4600.

**VENTURA REGIONAL SANITATION DISTRICT
ORDINANCE NO. VRSD-109**

**AN ORDINANCE OF THE VENTURA REGIONAL SANITATION DISTRICT
REGULATING THE USE OF THE MALIBU BAY CLUB ONSITE WASTEWATER
TREATMENT SYSTEM AND ADOPTING SEWER SERVICE FEES AND CHARGES**

WHEREAS, Ventura Regional Sanitation District (“VRSD” or “District”) is a county sanitation district created pursuant to California Health & Safety Code §4700 et seq.; and

WHEREAS, VRSD owns and operates an advanced onsite wastewater treatment facility and public sewer serving the Malibu Bay Club located at 41000 Pacific Coast Highway in the unincorporated area of the County of Ventura (“System”); and

WHEREAS, California Health & Safety Code §5471 provides that VRSD may prescribe and collect fees and charges in connection with the System pursuant to an ordinance adopted by a two-thirds vote of the governing body; and

WHEREAS, the District maintains budgets, operation plans, capital improvement programs and financial and operational reports (collectively referred to as the “Administrative Record”) which have been made available to the public, both prior to and subsequent to their public review at noticed public meetings; and

WHEREAS, the District periodically undertakes evaluation and study of its operational and financial needs for the future, including: assessments of the System users, the demands on the System, the capacity and treatment requirements of the System to provide necessary service to the users, and the total costs of the existing and future operations and facilities in the System. These evaluations were utilized during the development of the District’s 2011-2012 Fiscal Year Final Budget; and

WHEREAS, in support of this Ordinance and the revised charges for sewer service as provided for herein, the Board of Directors finds that the District’s Budget provides for the implementation of legally mandated treatment standards, thereby improving effluent water quality, consistent with the goals and policies of the Board of Directors and the public. The Board further finds that annual adjustments in Sewer Service Charges ensures adequate revenues to finance the improvements and programs necessary to implement the mandated treatment standards, rehabilitate and refurbish existing facilities, and retire any necessary or prudent debt incurred to finance such improvements in a reasonable manner and over a reasonable period of time. The Board of Directors also finds that such Sewer Service Charges are reasonably related to, and do not exceed the costs of providing sewer services; and

WHEREAS, the revenues derived under the provisions of this Ordinance will be used for the reconstruction, maintenance, and operation of the sewage collection, wastewater treatment and disposal facilities of the District; to repay principal and interest on debt instruments (except for costs paid for pursuant to the assessments levied by the Malibu Bay Club Assessment District); together with costs of administration and provisions for necessary reserves; and to assist in the payment of costs to the District to provide all regulatory administration and laboratory services related to the users of the District’s Systems; and

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WHEREAS, the owners or occupants of the properties upon which all fees and charges established by this Ordinance are levied, discharge wastewater to the District's collection, treatment and disposal facilities; and assessments to repay the cost of the original design and construction of the onsite wastewater treatment facility are separately levied by the Malibu Bay Club Assessment District; and

WHEREAS, the Sewer Service Charges established and levied by this Ordinance are designed to allow the District to recover the reasonable costs to provide service to users of individual single-family residences, town homes and/or condominiums served by the System located within the Malibu Bay Club Assessment District; and the basis for the charge is the request of the owner of property or a structure thereon, for the benefit of him/her/itself, or the occupants of the property, to receive a service providing for disposal of sewage to the District's System in lieu of disposal by other means; and

WHEREAS, the Sewer Service Charges established by this Ordinance are not imposed as a condition of approval of a development project, as defined in California Government Code Section 66001 and do not exceed the estimated reasonable cost to provide the sewer service for which the fee is levied, as required by law; and

WHEREAS, all fees and charges established herein have been approved by the District's Board of Directors at a properly noticed public hearing, all in accordance with applicable provisions of law and the California Constitution, including California Constitution Article XIID (enacted by Proposition 218, November 6, 1996, Statewide Election); and

WHEREAS, the adoption of this Ordinance is statutorily exempt under the California Environmental Quality Act pursuant to the provisions of Public Resources Code Section 21080(b)(8) and California Code of Regulations Section 15273(a).

NOW, THEREFORE, the Ventura Regional Sanitation District Board of Directors ordains as follows:

ARTICLE I - DEFINITIONS

Section 1. Board. "Board" shall mean the Board of Directors of the District.

Section 2. Building. "Building" shall mean any structure used for human habitation, business, recreation, or other uses requiring sanitary facilities.

Section 3. Building Connection Sewer. "Building Connection Sewer" shall mean that portion of a Side Sewer within a public right of way/easement that connects a Building Sewer to the Public Sewer.

Section 4. Building Sewer. "Building Sewer" shall mean the portion of the Side Sewer beginning at any building and running to the public right of way/easement in which the Public Sewer is located.

Section 5. Condominium. A "condominium" is an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property. A condominium may include, in addition, a separate interest in other portions of such real property.

Section 6. Contractor. "Contractor" shall mean any individual, firm, partnership, association, or corporation currently licensed by the State of California to perform the type of work required by Permit.

Section 7. District. "District" shall mean the Ventura Regional Sanitation District of Ventura County, California, and the terms District and VRSD may be used interchangeably.

Section 8. Sewage. "Sewage" shall mean the wastewater derived from ordinary living processes, free from commercial, institutional or industrial wastes, and of such character as to permit disposal, without special treatment, into the System.

Section 9. System Manager. "System Manager" shall mean the District Director of Operations or his/her appointed representative, who shall administer and enforce all provisions of this Ordinance.

Section 10. Residential Unit. "Residential Unit" or "RU" shall mean a unit of measurement for each single-family residence, town home or condominium unit. The District has determined that the quantity and quality of sewage originating from each unit falls within a range that justifies a uniform Sewer Service Charge per unit. In the event the District, after a public hearing, determines that any unit generates sewage which causes extraordinary expenses, a Special Case Charge may be imposed as provided below at Section 25.

Section 11. Permit. "Permit" shall mean any written authorization required pursuant to this Ordinance or any other rules or regulations of the District for the installation or connection of any sewage works.

Section 12. Person. "Person" shall mean any human being, individual, firm, company, partnership, association, private, municipal or public corporation, the United States of America, the State of California, districts, and all political subdivisions, governmental agencies and subsidiaries thereof.

Section 13. Public Sewer. "Public Sewer" shall mean a sewer main lying within a public right-of-way/easement under the jurisdiction of the District.

Section 14. Rules and Regulations. "Rules and Regulations" shall mean specific rules and/or regulations adopted by a Resolution of the Board to establish specific guidance and limitations on how a portion of the District's operating procedures are to be handled. Said Rules and Regulations shall not conflict with this or any other ordinance of the District.

Section 15. Side Sewer. "Side Sewer" shall mean the lateral sewer line beginning at any building and terminating at the Public Sewer and includes the Building Connection Sewer and Building Sewer.

Section 16. System. "System" shall mean VRSD's Malibu Bay Club Onsite Wastewater Treatment Facility, public sewer, and all ancillary facilities for the collection, transportation, storage, pumping, treatment, reclamation and disposal of Sewage at the Malibu Bay Club, subject to the provisions of Section 36 below.

Section 17. Sewer. "Sewer" shall mean any pipe or conduit for the transportation of Sewage within the System.

Section 18. Sewer Service Charge. "Sewer Service Charge" shall mean the monthly charge the District imposes upon the owners of Residential Units using the System and established by the District to recover the sum of the total System operation, maintenance and replacement costs, general administration costs, capital costs and District expenditures deemed necessary to conduct the lawful business of the District.

ARTICLE II - PUBLIC SEWER USE

Section 19. Waste Disposal. It shall be unlawful for any person to place, deposit, or permit the deposit in an unsanitary manner upon public or private property within the Malibu Bay Club any Sewage or other wastewater in violation of any law or regulation.

Section 20. Discharge of Waste. It shall be unlawful to discharge into any drainage conduit, stream or watercourse any Sewage or other polluted waters.

Section 21. Types of Wastes Prohibited. No person shall knowingly discharge or deposit or allow the discharge or deposit into the System any of the following: storm, surface or ground waters; or solids or fluids which create nuisances, such as nuisance odors; or solids or fluids which are a menace to public health, or hazardous waste solids as defined in the California Health and Safety Code; or fluids, including but not limited to, grease, oil, cleaning agents or root control agents, which are detrimental to the functioning of said sewers or to the treatment processes and/or disposal facilities of the System. Rules and Regulations to implement this prohibition may be set by Resolution of the District in a format known as the Rules and Regulations for the System. Said Rules and Regulations shall set limitations on certain wastes and discharges into the System and provide for a System of permits, wastewater monitoring and self reporting.

Section 22. Permits and Fees. No public or private sewer or sewerage facility shall be installed, altered, or repaired within the Malibu Bay Club until a Permit has been obtained from the District (and other regulatory agencies, if required) and appropriate fees paid in accordance with the District's ordinances, Rules and Regulations.

Section 23. Construction Requirements. The requirements of the District and this Ordinance shall govern the construction of Building Sewers and Building Connection Sewers. Specific requirements may be set by resolution of the District in a format known as the Rules and Regulations for the System.

Section 24. Persons Authorized. Sewer construction within the Malibu Bay Club shall be performed by authorized contractors, currently licensed by the State of California or by the District. All terms and conditions of the District Permit shall be binding on the Contractor. The requirements of this section shall also apply to Building Sewers and Building Connection Sewers installed concurrently with Public Sewer construction.

ARTICLE III - SEWER SERVICE CHARGE

Section 25. Sewer Service Charge. A Sewer Service Charge for each RU shall be paid to the District by the person owning any building or condominium served by the System in accordance with the following schedule:

SEWER SERVICE CHARGE	MONTHLY CHARGE
Per Each Residential Unit (RU)	\$73.30

SPECIAL CASE CHARGES

In the event any person owning any building or condominium served by the System causes District to incur extraordinary maintenance or operational expenses, then that person shall pay District Special Case Charges to be determined for each individual case based on the District's then published labor rate and reasonable and actual collection and treatment costs incurred by District.

Section 26. Findings Concerning Sewer Service Charges. The Board of Directors makes the following findings in connection with adoption of this Ordinance:

- a. The fees and charges set forth in this Ordinance do not exceed the estimated reasonable cost of providing the sewerage services for which the fees and charges are imposed.
- b. Revenues derived from the fees and charges are not used for purposes other than the provision of sewerage services.
- c. The fees and charges are used for the administration, operation, maintenance, repair and reconstruction of the System and for meeting the System's financial reserve requirements.

Section 27. Collection of Fees and Charges and Penalties for Nonpayment of Direct Fees and Charges. Pursuant to California Health and Safety Code Sections 5473, et seq., the District hereby elects to have the Sewer Service Charges established pursuant to this Ordinance collected on the Assessor's tax roll for the County of Ventura. Other fees and charges established pursuant to this Ordinance may be collected by any method allowed by law. If fees and charges are collected by direct billing, all fees and charges made or assessed under the provisions of this Ordinance are due and payable fifteen (15) days from the mailing date of the billing document and shall become delinquent fifteen (15) days thereafter. Delinquent amounts shall be subject to a penalty of ten percent.

- a. **Collection Charge Application.** The charges described herein shall be applied to accounts with direct billing only. The usual charge applied by the Auditor-Controller/Tax Collector's office shall be applied to unpaid property tax bills, where the fees and charges have been placed on the tax rolls for collection. The extraordinary charges described herein shall not be applied to unpaid property tax bills.

- b. **Ongoing Collection Charge.** Balances of all accounts plus any initial collection charge, which remains unpaid at the end of the next regular billing period, shall incur additional ongoing collection charges of one and one-half percent (1.5%) per month on the unpaid balance until paid. Continued nonpayment will result in the unpaid amounts, plus any collection costs to the district, being added to the tax rolls for collection during the next tax year.

ARTICLE IV - PERMITS AND FEES

Section 28. Permit. Prior to construction, repair, or maintenance of a Building Sewer, Building Connection Sewer, or any connection with a Public Sewer, the owner of the building or condominium served shall obtain a written Permit, and pay all fees and charges in accordance with the provisions of the District's Ordinances Rules and Regulations.

Section 29. Permit Required. No unauthorized person shall uncover, connect with, or open into, use, alter, or disturb any part of the System, without first obtaining a Permit from the District. Evidence of a Permit shall be posted at the work site or otherwise made available upon demand of any District authorized representative.

Section 30. Application for Permit. Any person legally entitled to apply for and receive a Permit may make application to the District. The location, ownership, occupancy and use of the premises and a description of the proposed nature of the work to be performed shall be provided by the applicant. Specifications, plans, drawings and other information shall be supplied to the System Manager as deemed necessary.

Section 31. Permit Compliance. Approval of the application for a Permit is evidenced by the issuance of a Permit. Thereafter, no change shall be made in the location of the sewer, the grade, materials or other details described in the Permit or as shown on the approved plans and specifications, unless prior written permission is obtained from the District, the System Manager, or other authorized representatives. Until the connections covered by the issued Permit have been installed and approved in accordance with District ordinances and Rules and Regulations, no residence, building or facility to be served by said connections shall be allowed to discharge Sewage to the Public Sewer.

Section 32. Time Limit, Permits. If the work granted by the Permit is not commenced within six (6) months from date of issuance, or is discontinued for a period of ninety (90) days after partial completion, the Permit shall be void. No further work shall be undertaken until a new Permit has been secured by proper application. The work shall be completed within the calendar days for completion as specified by the new Permit.

Section 33. Agreement. The signature of the applicant on an application for a Permit shall constitute an agreement to comply with all provisions, terms and requirements of this Ordinance. The signature shall constitute an agreement to comply with the approved plans and specifications and any further corrections or modifications as may be required by the District. Such agreements shall be binding upon the applicant and may be modified by the District after the receipt and consideration of a written request for modification submitted by the applicant. Installation and connection of any sewer or other work, for which a Permit is required, shall be at the expense of the owner.

Section 34. Owner to Indemnify District. The owner shall indemnify the District from any liability, loss or damage directly or indirectly caused by the installation and connection of any sewer or other work for which a Permit is required.

Section 35. Liability. The owner shall be solely liable to the District for any defects or failure during performance of the permitted work or any failure, which may develop therein. The District, its officers, agents and employees shall not be answerable for any liability, death or injury to persons, or property damage due to, or arising out of, the performance of the work by the applicant. The applicant shall indemnify and hold harmless the District, its officers, agents and employees from all liabilities imposed by law, including all costs, expenses, fees and interest incurred in seeking to enforce this provision.

Section 36. Owner's Responsibility. The owner shall be responsible for maintaining the Building Sewer and the Building Connection Sewer. The owner shall be responsible for the installment, maintenance and operation of backflow preventors and clean-outs. The District shall not be liable should owner fail to install or maintain a backflow prevention device.

ARTICLE V - ENFORCEMENT

Section 37. Violation. Any person found to be in violation of any provision of this or other ordinances of the District shall be served with written notice by the System Manager or other authorized representative. Such written notice shall state the nature of the violation and provide reasonable time limit for correction thereof. Said time limit shall not be less than two (2) nor more than seven (7) working days. Within the time period stated in the notice, all violations shall permanently cease. All persons shall be strictly liable for the acts of their agents and employees performed under the provisions of this or any other ordinance or rules and regulations of the District. Upon notification by the System Manager of any defect arising in any sewer, or notification of any violation of this Ordinance, the person or persons in charge of said work shall immediately effect corrections.

Section 38. Disconnection. The alternate method of enforcing the provisions of this or any other ordinance or rules and regulations of the District, shall be as follows: the System Manager shall have the power to disconnect the user from the System. Upon disconnection, the System Manager shall estimate the cost of disconnection and reconnection. Such user shall deposit said estimated cost prior to reconnection to the System. The District shall refund any part of the deposit remaining after payment of the aforementioned costs.

Section 39. Means of Enforcement. The District declares the foregoing procedures are established as a means of enforcing the provisions of this and any other ordinance or rules and regulations of the District, and not as a penalty.

Section 40. Misdemeanor. In accordance with the Health & Safety Code of the State of California, the violation of any ordinance or Rules and Regulations of the District by any person is a misdemeanor punishable by fine not to exceed One Thousand Dollars (\$1,000), imprisonment not to exceed thirty (30) days, or both. Each connection or occupancy in violation of the ordinance or Rules and Regulations of the District shall be deemed a separate violation. Each and every day, or part of a day, in violation of the ordinance or the Rules and Regulations, shall be deemed a separate offense hereunder and shall be punishable as such.

Section 41. Liability for Violation. The violation of any provision of this ordinance, or rules and regulations of the District, by any person shall cause him to be liable to the District for any expense, loss or damage caused the District by reason of the violation.

ARTICLE VI - MISCELLANEOUS PROVISIONS

Section 42. Protection from Damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which constitutes a part of the System. Any person in violation of this provision shall be subject to the penalties and charges provided by law.

Section 43. Power and Authority of Inspectors. The District may employ a qualified person or persons to inspect the installation, connection, maintenance and use of all Side Sewers and all facilities in connection with the System. The inspectors or any other duly authorized employee of the District shall carry evidence, which establishes his/her position as such. Upon the exhibition of proper credentials and identification, he/she shall be permitted to enter into buildings and private property at the Malibu Bay Club for the purposes of inspection, observation, measurement, sampling, testing, or otherwise performing the necessary duties pursuant to the enforcement of the provisions of this or any other ordinance or rules and regulations of the District.

Section 44. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof to any person, is held to be invalid or unconstitutional, there shall be a presumption of validity or constitutionality to the remaining portions. The Board hereby declares that it would have passed this Ordinance or any section, subsection, sentence, clause or phrase herein, notwithstanding the invalidity or unconstitutionality of any other part of the Ordinance.

Section 45. Effective Date/Repeal of Provisions. This Ordinance shall become effective July 2, 2011. Any provision of any prior District ordinance inconsistent herewith is hereby repealed.

PASSED, APPROVED AND ADOPTED by the Ventura Regional Sanitation District Board of Directors on June 2, 2011, by the following votes:

AYES:

NOES:

ABSENT:

VENTURA REGIONAL SANITATION DISTRICT

By _____
James Monahan, Chairman
Board of Directors

ATTEST:

Josie Guzman
Clerk of the Board

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