

ORDINANCE NO. 04-1

AN ORDINANCE DEFINING CERTAIN TERMS; ESTABLISHING SEWER USER CHARGES; IDENTIFYING THOSE RESPONSIBLE FOR PAYMENT; PROVIDING FOR COLLECTION OF USER CHARGES; REPEALING ORDINANCE NO. 03-1; AND DECLARING AN EMERGENCY.

THE LAPINE SPECIAL SEWER DISTRICT ORDAINS AS FOLLOWS:

SECTION 1. SHORT TITLE:

This ordinance shall be known as the La Pine Special Sewer District Sewer Rate Ordinance.

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SECTION 3. PURPOSE: This ordinance is adopted for the following purposes:

- I. In order to protect the groundwaters within and adjacent to the core area of the community of LaPine from pollution and to promote the health, safety, and welfare of the residents, a sewage system has been proposed to be constructed and operated by the LaPine Special Sewer District for collection, treatment, and disposal of wastewater;
- II. In order to carry out the District's authorized function of sewage collection, treatment and disposal, it is necessary and in the public interest

that the District establish rates for sewage service in amounts sufficient to pay the expenses of operating and maintaining such facilities, to provide for replacement, and to provide a margin for reserve; and

- III. The District has entered into a grant agreement with the Environmental Protection Agency for construction of sewage treatment facilities, in which the District has agreed that the costs of operating and maintaining the sewage treatment works shall be distributed among all users of such treatment works in general proportion to each user's contribution to the total wastewater flow and loading of the sewage system.

SECTION 4. DEFINITIONS:

Refer to the LaPine Special Sewer District System Use Ordinance (Ord.No 01-1) for additional definitions.

4.1 "Collection and treatment works" shall mean all facilities for collection, pumping, treating and disposing of sewage to be operated by the District. "Treatment works", "treatment system", and "sewage system" shall be equivalent terms for "collection and treatment works".

4.2 "Commercial user" shall mean any premises used for commercial or business purposes which are not an industry as defined in this ordinance.

4.3 "District" shall mean the LaPine Special Sewer District, Deschutes County, Oregon.

4.4 "District Engineer" shall mean the consulting engineer retained by the District.

4.5 "Domestic Waste" shall mean any wastewater from dwellings.

4.6 "Operation and maintenance" shall mean activities required to ensure the dependable and economical function of treatment works.

(a) Maintenance: Preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance and replacement of equipment.

(b) Operation: Control of the unit processes and equipment that make up the treatment works. This includes keeping financial and personnel management records, laboratory control, process control, safety and emergency operation planning, employment of attorneys and consultants, payment of court costs; and payment of any costs or fees reasonably associated with any of the above.

4.7 “Person” shall mean any individual, firm, company, association, society, corporation or group.

4.8 “Public treatment works” shall mean a treatment works owned and operated by a public authority.

4.9 “Replacement” shall mean obtaining and installing equipment accessories or appurtenances that are necessary during the design or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

4.10 “Service area” shall mean all the area served by the collection and treatment works and for which there is one uniform user charge system.

4.11 “User” shall mean every person directly or indirectly using any part of the public treatment works of the LaPine Special Sewer District. User includes each separate, non-residential establishment, whether or not sewer facilities are located in the user’s portion of the building.

(a) “Residential user” shall mean user of single-family dwellings.

(b) “Non-residential user” shall mean any other user.

4.12 “User charge” shall mean a charge levied on users of a treatment works, paid by a user for the user’s proportionate share of the cost of operation and maintenance (including replacement) of such works under Section 204(b)(1)(A) of the Federal Clean Water Act.

SECTION 5. SEWER USER CHARGES:

5.1 User charges shall be levied on all users of the public treatment works. These charges shall cover the costs of operation and maintenance, replacement, taxes, and other administrative costs of such collection and treatment works. The user charge shall distribute these costs in proportion to each user’s contribution to the wastewater loading of the treatment works.

5.2 There shall be established classes of users such that all members of a class shall pay a flat charge for a minimum volume of wastewater discharged from each residence, facility or other appropriate unit.

5.3 Should any user believe that the user’s proportional cost is incorrect, user may apply for review of the user charge as provided in Section 9 of this ordinance.

5.4 Should the District Engineer determine that a user’s wastewater contribution is incorrectly assigned, he or she shall reassign a more

appropriate value to that user and shall notify the user of such reassignment.

5.5 Records of all assigned wastewater contributions forming the basis of the charges shall be kept on file with the District and shall be open for public inspection.

5.6 Each non-residential user's wastewater treatment cost contribution, which will be determined on the basis of the current equivalent dwelling unit schedule. This will determine that user's annual wastewater service charge, to be assessed in accordance with the rate schedule established by resolution of the District Board. Residential users may be considered to be one class of user and an equitable service charge may be determined for each such user based on an estimate of the total wastewater contribution of this class of user. The District may classify industrial, commercial and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user.

5.7 Non-residential establishments are charged on a store-front basis, one charge for each separate business in the building. Each separate business is charged even though there may not be facilities in the user's portion of the building since each user's use and occupancy adds to the load and sewage treated by the overall system. The District may charge the owner or user where the common facilities are located for each tenancy in lieu of charging each tenant individually.

5.8 Any user that cannot be classified in any of the above user classes shall be considered a special user. Such user shall be placed in an Open Class and charged according to the user's wastewater contribution, as determined by the District Engineer, and the rates established by resolution, all in accordance with this section.

5.9 In the case of new users, the sewer charge for all property shall begin three months after the system development charge is paid or due. Once the sewer user charge has commenced, no credit shall be given for vacancy.

SECTION 6. RESPONSIBILITY, PAYMENT DELINQUENCIES AND PENALTIES:

6.1 The user of the sewage system shall be responsible for the sewer user charges, administrative and late fees prescribed by this ordinance. However, the property owner of record, in accordance with the provisions of subsections 6.4, 6.5 and 6.6, shall be responsible for the payment of the

sewer user charges prescribed by this ordinance for services rendered by the District when the user, if different than the owner of record, is delinquent in the payment of sewer user charges. Where the user has a delinquent bill for one premises, the delinquency shall be charged against the user for sewer services obtained at any other premises within the District.

6.2 The users of the sewage system shall be billed every month (12 times per year) for services after they are rendered, at a rate to be established by resolution.

6.3 Billings for any one-month period shall be made within 10 days after the end of the one-month period.

6.4 Sewer user charges shall be due and payable to the District no later than 20 days after the end of the one-month period for which bill is made. If the District has not received payment within those 20 days, a notice shall be mailed to the user and to the property owner of record, if different than the user, notifying the user and the property owner that sewer service shall be suspended if the delinquent bill has not been paid in full within thirty (30) days. If payment is not received within those 30 days, a notice shall be mailed to the user and to the property owner, if different than the user, that the sewer charges may become a lien on the premises served, in accordance with this section and in accordance with the provisions of subsection 6.5, fifteen (15) days from the date of the notice unless payment is received in full.

6.5 Any sewer charge which is due and unpaid at the expiration of the time limitations set forth in subsection 6.4 or any expenses related to discontinuance, removal, closing or restoration of service after a delinquency, may be recovered in an action at law by the District in accordance with the provisions of this Section; and any delinquencies may be certified to the tax assessor of Deschutes County Oregon, for collection in the manner provided by ORS 454.225.

6.6 Interest shall accrue on all accounts from the date of delinquency. In addition, a penalty shall be assessed from the date of delinquency, which shall be added to the account and shall accrue interest in the same manner as all other delinquent charges beginning the following month. The interest rate and penalty charge shall be established by resolution.

6.7 In the event sewer charges remain unpaid fifty (50) days after the date of the end of the one-month period for which the bill is made, the District shall have the right to remove or close sewer connections and to enter upon the property for accomplishing such purposes. The expense of such discontinuance, removal, or closing, as well as the expense of restoring service shall be a debt due to the District and may be collected from the

user or the property owner in accordance with the provisions of this ordinance.

6.8 In the District's sole discretion, sewer service may not be restored until all charges, including interest accrued and the expense of removal, closing, and restoration have been paid.

6.9 Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties. No new service will be provided for a person or reconnected until all unpaid fees and penalties plus interest have been paid in full.

SECTION 7. HANDLING OF FUNDS:

7.1 Bills for sewer user charges shall be mailed to the address specified in the application for permit to make the connection unless or until a different owner or user of the property is reported to the District.

7.2 All collections of sewer user charges shall be made by the Manager of the District. Sewer user charges shall be computed as provided in Section 5 of this ordinance and shall be payable as provided in Section 6 of this ordinance.

7.3 The Manager of the District is hereby directed to deposit in the Sewer Fund all of the gross revenues received from charges, rates and penalties collected for the use of the sewage system as herein provided.

7.4 The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance and repair of the sewage system; reasonable administration costs; expenses of collection of charges imposed by this ordinance and connection fees provided for in the LaPine Special Sewer District sewer system use and regulation ordinance together with any attorney fees, investigation fees and/or court costs incurred therein; and payments of the principal and interest on any debts of the sewage system of the District.

SECTION 8. APPEALS:

8.1 Any sewer user who feels the user's sewer user charge is unjust and inequitable as applied to the user's premises within the intent of the foregoing provisions may make written application to the District's Board of Directors requesting a review of the user's user charge. Said written request shall, where necessary, show the actual or estimated average flow of the user's wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

8.2 Review of the request shall be made by the District's Board of Directors and the District Engineer. The District Engineer shall determine if the request is substantiated or not, including recommending further study of the matter by the District engineer or other registered professional engineer.

8.3 If the request is determined to be substantiated, the user charges for the user shall be recomputed, based on the approved revised flow and/or strength data and the new charges thus recomputed shall be applicable retroactively up to six months, as appropriate.

8.4 Any appeal undertaken herein shall not excuse the user from paying all sewer user charges presently assessed. Failure to pay such charges shall subject the user to the penalties provided in Section 6. A subsequent ruling on appeal favorable to the sewer user shall not act to extinguish any penalties or interest assessed against the user for non-payment of any user fees; provided, however, that such penalties and interest shall be recomputed consistent with any reduction in user fees allowed on appeal.

SECTION 9. CONFORMITY WITH THE LAW:

This ordinance shall not substitute for or eliminate the necessity for conformity with any and all laws, ordinances, rules or regulations of the State of Oregon or its agencies, Deschutes County, the District or other public entity.

SECTION 10. SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 11. REPEAL CLAUSE:

Ordinance 03-1 is hereby repealed.

SECTION 12. EMERGENCY CLAUSE:

It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the LaPine Special Sewer District, and an emergency is hereby declared to exist and this Ordinance, and all

provisions modifying the ordinances referred to herein, shall take effect in full force and effect when signed by the Board President.

PASSED AND ADOPTED by a ___ vote for and a ___ vote against by the LaPine Special Sewer District Board of Directors, this ___ day of _____ 2004.

Board President

ATTEST:

Board Secretary