

**ORDINANCE NO. 3511
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
MARSHALL ONSITE WASTEWATER DISPOSAL ZONE #1**

SEWER SERVICE CHARGES

An Ordinance of the Marin County Board of Supervisors for the Marshall Onsite Wastewater Disposal Zone #1, setting sewer service charges, connection fees and other fees and charges, calling for collection on the tax roll for fiscal year 2009-20010 and thereafter, and making findings and determination of inapplicability pursuant to the California Environmental Quality Act (4/5 vote required).

The Board of Supervisors of the County of Marin acting as the Directors of the Marshall Onsite Wastewater Disposal Zone #1 ("Zone"), Marin County, California, hereby ordains as follows:

SECTION I - TIME OF MEETING/FISCAL YEAR. The Marin County Board of Supervisors, in conducting business for the Marshall Onsite Wastewater Disposal Zone #1 shall meet at the same time and place as established for the Board of Supervisors. The Fiscal Year of the Marshall Onsite Wastewater Disposal Zone #1 shall be the same as the Fiscal Year of the County of Marin.

SECTION II - METHODOLOGY FOR ESTABLISHING ANNUAL SEWER CHARGES AND SEWER SYSTEM CONNECTION FEES.

- A. Annual sewer service charges and sewer system connection fees shall be based on an Equivalent Single Family Dwelling Unit ("ESD") as defined in the Final Engineer's Report, Marshall Phase 1 Community Wastewater System Assessment District, and in accordance with the attached ESD Billing Unit tables **derived from the Final Engineer's Report for the Marshall Phase 1 Community Wastewater System Assessment District ("Engineer's Report")**. Sewer service charges shall be calculated by multiplying the number of ESDs specified in the Engineer's Report by the annual service charge per ESD, and attached hereto as Exhibit A. Connection fees shall be calculated by multiplying the number of ESDs by the applicable connection fee per ESD specified in Engineer's Report. The total number of ESDs may be increased or decreased from time to time as a result of new connections, discontinuance of service or abandonment.
- B. When requested by a user whose property will remain unoccupied for the fiscal year, the Director of the Marin County Community Development Agency or his or her authorized designee may allow the annual service charges to be temporarily reduced to seventy-five percent (75%) of the standard charge based on the ESD calculation method.

SECTION III - ANNUAL SERVICE CHARGES.

- A. "Annual 'Service Charge'" is defined as a charge for services provided by the Marshall Onsite Wastewater Disposal Zone #1 collection and treatment system for a period of one year to each user and based on the estimated or actual usage of the sewer system. The annual service charge is based on the estimated annual total cost of providing services to users, and shall include providing for: administering the zone operations and construction loans, operating, maintaining, managing, upgrading and replacing components of the sewer system, as submitted to and approved by the Marin County Board of Supervisors each year.

- B. An annual service charge of \$1098.96 per ESD on properties within the boundaries established as the District is hereby prescribed and established for fiscal year 2008/2009. In future years, the annual fees set by this Ordinance shall be adjusted each year in accordance with the CPI-U Consumer Price Index published by the U.S. Bureau of Labor Statistics. The base index shall be 1982-84 = 100 and the Community Development Director shall calculate the sewer fees by using the index value on July 1st each year. The change in sewer fee (if any) shall be directly proportional to the change in the CPI-U index during the prior twelve months ending on June 30th. The Annual service charge per ESD for each fiscal year shall be the total annual costs as calculated above, divided by the number of ESDs at the beginning of that fiscal year.
- C. New users, as defined in the Marshall Onsite Wastewater Disposal Zone #1 Sewer Ordinance, issued permits shall have the service charge prorated from the first day of the month in which the permit is issued to the last day of the following June. Service charges for that period of time due hereunder shall be paid prior to issuing a permit to connect to the Zone's sewer system.
- D. For the purpose of this Ordinance, each improved property shall be deemed to be fully and continuously occupied from and after the date of issuance of a permit to connect. Annual service charges for improved property shall not be refunded even though sewer service is abandoned or discontinued to the satisfaction of the Director prior to the last day of the following June. In such cases, the annual service charge shall cease as of the following July 1 and the total number of ESDs will be adjusted accordingly.
- E. All service charges payable hereunder, except others who have separate agreements for payment with the Zone, shall be paid in two equal installments. The payment for the first one-half of any fiscal year shall be due and payable on, or before, December 10th of the particular year. The payment for the second one-half of any fiscal year shall be due and payable on, or before, April 10th of the particular fiscal year.
- F. Charges on Tax Bill:
1. The charges or fees set forth in the annual budget attached to this ordinance as Exhibit A or as amended each fiscal year and prepared in accordance with Health and Safety Code Section 5473, as confirmed, shall appear as a separate item on the tax bill. The charge may be collected at the same time and in the same manner as ordinary County ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of County ad valorem property taxes shall be applicable to such charge, except that if the real property to which such charge relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the charge confirmed pursuant to this section shall not result in a lien against such real property but instead shall be transferred to the unsecured roll for collection.

2. If said service charges are not paid by the due date (s) shown in Paragraph III.F above, a penalty of ten (10) percent of the amount due shall be applied as well as a one-half of one (1) percent per month penalty for nonpayment of said charges and the basic penalty.

G. Use of Annual Service Charges

Annual service charges shall be used by the Zone and the Board of Supervisors of the County of Marin acting as the Directors of the Zone for the purposes stated in Section III A, above. The Directors of the Zone may elect to establish and maintain a reserve fund.

SECTION IV - CONNECTION FEES.

A. Connection Fee Charges: Fees for connection to the sewer system shall be as follows:

1. **Assessed Properties Located Within the Zone:** Except as provided in Section IV.B., no connection fee shall be charged to properties located within the Zone that have been assessed under the July 2007 Marshall Phase 1 Community Wastewater System Assessment District and subsequent amendments through fiscal year 2008/2009. For purposes of this Section IV, a property owner who paid the full amount of \$19,200 per ESD during calendar year 2007 in lieu of assessment shall be considered to be the owner of an Assessed Property.
2. **Non-assessed Properties Located Within the Zone: Owners of** non-assessed properties located within the Zone, applying to connect to the Marshall Phase 1 Community Wastewater System shall pay a connection fee per ESD calculated in accordance with the approved Zone budget adopted by the Board of Supervisors of the County of Marin acting as the Directors of the Zone

B. Connection Fee and Miscellaneous Terms and Conditions:

1. The connection fees are applicable to the existing or proposed use of the building at the time the sewer connection permit is issued. In the event of permitted alteration of the building or of additional use of the sewer facilities for which the connection fee was originally established, additional connection fees shall be paid for the added ESDs, calculated according to the schedule provided in Exhibit A.
2. Users who wish to connect a building which is a replacement of a previously connected building may have the connection fee for the existing ESD allotment waived if the user applies for a building permit within twenty-four (24) months after the date of destruction or demolition. Users not making such an application are deemed to have discontinued their connection to the sewer system and will be charged a new sewer connection fee.

SECTION V - CALIFORNIA ENVIRONMENTAL QUALITY ACT. The Board hereby finds that the California Environmental Quality Act ("CEQA") does not apply to the establishment of charges pursuant to this Ordinance, as such fees are for the purpose of meeting repayment of debt service costs, operation and management expenses, meeting financial reserve needs and requirements, and setting aside funds for capital projects necessary to maintain service within the existing Zone (15273 California Code of Regulations, 21080 Public Resources Code). In addition, construction of the underlying project underwent CEQA review in the form of a full Environmental Impact Report, which was certified on April 17th, 2007.

SECTION VI - SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Marin County Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VII - EFFECTIVE DATE OF ORDINANCE. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Board of Supervisors voting for or against the same, in a newspaper of general circulation, published in the County of Marin, State of California, and the Clerk of the Board shall post in the office of the Clerk, a certified copy of the full text of this ordinance along with the names of those Directors voting for or against the Ordinance.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 10th day of February, 2009, by the following vote:

AYES: SUPERVISORS Susan L. Adams, Steve Kinsey, Charles McGlashan,
Judy Arnold, Harold C. Brown, Jr.

NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK

Marshall Onsite Wastewater Disposal Zone #1

Annual Budget for FY 2008-2009

Operations & Maintenance Expenditures

Contract Operator Fee (Phillips & Associates)	\$ 15,820.00
Contract Operator One-time Startup Fee	\$ 1,000.00
Estimated laboratory fees for sample analysis	\$ 4,000.00
Contract Operator Fee for Emergency Response (contingency)	\$ 4,000.00
Annual stormwater permit (2008/09 only): RWQCB	\$ 402.00
RWQCB WDR Operating Permit	\$ 2,510.00
Zone Administration Costs	\$ 3,800.00
Telephone line (for telemetry)	\$ 1,080.00
PG&E Service to Pumphouse	\$ 1,200.00
Equipment replacement allowance (30 pumps @ \$1,200/20 yr life)	\$ 1,800.00
Contingency for equipment, fixtures, emergencies, additional callouts or maintenance needs.	\$ 2,500.00
Engineering Assistance (Questa Engineering)	\$ 2,000.00
Total	\$ 40,112.00

Annual Sewer Service Charge for FY 2008-2009

Total Number of Equivalent Standard Dwellings as of December 2008 = 36.5

Fee payable to Zone per ESD for FY 2008/09 \$ 1,098.96

Connection Fee per ESD \$34,016

Summary of significant issues

Because the Marshall Hotel/Tavern project is not yet completed it is likely that the owners will apply for a reduction in their fees for this fiscal year, which would reduce revenues by one ESD or about \$1072

District applied for and may receive a 50% refund of the RWQCB operating fee, which would net approx \$1255

No specific allowance has been made for delinquencies as none are anticipated within this small District. However, should a delinquency occur, the contingency amount budgeted above should be adequate

Depreciation of facilities & equipment will be considered next year.

Pending RWQCB approval, monitoring costs should be lower after one continuous year of satisfactory system operation.

Accounting for the 1913 Act Assessment District finances are handled separately from this budget, which is dedicated solely to annual operational costs.