



ARNOLD LAROCHELLE MATHEWS  
VANCONAS & ZIRBEL LLP

Writer's Email  
rkwong@atozlaw.com

March 30, 2021

*Via First Class Mail and E-Mail*  
[greg.nickless@hcd.ca.gov](mailto:greg.nickless@hcd.ca.gov)

Shannan West  
Land Use & Planning Unit Chief  
Greg Nickless  
Land Use & Planning Unit Staff  
California Department of Housing  
and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Subject: Update on Ojai Valley Sanitary District's ("District") Accessory Dwelling Unit ("ADU") Fees and Charges

Dear Ms. West and Mr. Nickless:

As stated in our March 9, 2021 correspondence to you on the above-referenced subject matter, we promised to keep the California Department of Housing and Community Development informed of District Board of Directors' meetings in which the ADU fees and charges are discussed, as well as a copy of that meeting's agenda and any reports and analysis by District Staff supporting the new fees and charges.

To that end, please find the attached District Board of Directors' Agenda for March 22, 2021 and related materials for Agenda Item 14 pertaining to the proposed ordinance to revise the District's Code of Regulations as it applies to ADUs to be consistent with the current provisions of Government Code §§ 65852.2 and 65852.22.

GARY D. ARNOLD | KENDALL A. VANCONAS\* | ROBERT N. KWONG | SUSAN L. MCCARTHY  
JOSHUA S. SMITH  
OF COUNSEL JOHN M. MATHEWS | DENNIS LAROCHELLE | MARK A. ZIRBEL\*\* | DEAN W. HAZARD

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*\*Certified Specialist, Estate Planning, Trust & Probate Law  
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*\*\*Retired*

Department of Housing and Community Development  
March 30, 2021  
Page 2

The Board voted 4-3 to approve Agenda Items 14(a), (b), and (c) with additional instructions to District staff and Legal Counsel to address their concerns on the application of retroactivity to the provisions of the revised ordinance, the treatment of ADUs that are 750 sf or less in size, and process of making *all* District rates and fees meet current legal standards for “proportionality.”

It is expected that District staff will place an updated version of the proposed modification to the District Code of Regulations to address ADU fees and charges at the next regularly scheduled District Board meeting on April 26, 2021. That Board package should be ready for public review on or about April 22, 2021 on the District website: [http://ojaisan.org/board-meetings/board\\_meetings.html](http://ojaisan.org/board-meetings/board_meetings.html).

Although we may have our differences on the clarity of the subject ADU laws, we understand HCD’s concerns over the pressing need to address California’s affordable housing crisis. If this relatively small regulatory change will help ease that crisis, then this is a step in the right direction. And the District’s actions in this regard should not be taken or seen as a waiver of any legal arguments or defenses it may have should this matter become the subject of civil or administrative litigation.

Should you have any additional concerns or comments, feel free to contact me at my office at (805) 988-9886 or by email at [rkwong@atozlaw.com](mailto:rkwong@atozlaw.com). Thank you.

Sincerely,

ARNOLD LAROCHELLE MATHEWS  
VANCONAS & ZIRBEL LLP



Robert N. Kwong

RNK:JSS:em  
Enclosures by email only

cc: Jeff Palmer  
Alison Young



## OJAI VALLEY SANITARY DISTRICT

A Public Agency

1072 Tico Road, Ojai, California 93023

(805) 646-5548 • FAX (805) 640-0842

[www.ojaisan.org](http://www.ojaisan.org)

NOTICE TO THE OJAI VALLEY SANITARY DISTRICT  
BOARD OF DIRECTORS AND GENERAL PUBLIC

REGULAR MEETING AGENDA- NOTICE ADDENDUM

The Ojai Valley Sanitary District Board of Directors will hold a Meeting **Monday March 22, 2021 at 6:00 pm, via Webex conference.**

IN RESPONSE TO THE DECLARED STATE AND LOCAL EMERGENCIES DUE TO THE NOVEL CORONAVIRUS, AND IN ACCORDANCE WITH THE CALIFORNIA GOVERNOR'S RECENT ORDER TO LIMIT INDOOR OPERATIONS AS A PRECAUTIONARY MEASURE TO HELP SLOW THE SPREAD OF COVID-19, THE OVSD HEADQUARTERS FACILITY ON TICO ROAD IS CLOSED TO THE PUBLIC. TO FIND OUT HOW YOU MAY ELECTRONICALLY ATTEND THE BOARD MEETING AND PROVIDE PUBLIC COMMENT PLEASE REFER TO PAGE 2 OF THIS AGENDA

-- Do not delete or change any of the following text. --

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Meeting number (access code): 187 505 6602

Meeting password: VMmqKXE5J38

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### NOTICE OF MEETING

**NOTICE IS HEREBY GIVEN** that the Ojai Valley Sanitary District Board of Directors will hold a regular meeting at 6:00 p.m. on Monday March 22, 2021 at the District Office located at 1072 Tico Road, Ojai, California (Webex).

If you require special accommodations for attendance at or participation in this meeting, please notify our office 24 hours in advance at (805) 646-5548. (Govt. Code Section 54954.1 and 54954.2(a)).

The Ojai Valley Sanitary District Board of Directors encourages all interested parties to speak on any issue or subject matter subject to the District's jurisdiction. It is the desire of the Board that its business be conducted in an orderly and efficient manner.

#### **PUBLIC INPUT:**

All comments from the public are to be addressed to the Board of Directors, not to District Staff, Consultants or District Legal Counsel.

#### **Items Not On The Agenda:**

All speakers are requested to fill out a **Speaker Card (Green)** and submit it to the Clerk of the Board. All speakers are requested to present their information to the Board as concisely as possible with a three (3) minute time limit. This time limit may be modified by the Board Chairperson if necessary. If a member of the **public does not wish to speak** but wishes the Board to have benefit of their position on an issue, **they can present a Comment Card (Peach)** which will be acknowledged by the Chairperson. No response will be given or action taken unless an emergency exists as defined in subdivision (b) of the Government Code 54954.2. Items requiring action will be referred to staff or placed on a subsequent agenda.

#### **Items On The Agenda:**

All speakers are requested to fill out a **Speaker's Card (Green)** and submit it to the Clerk of the Board before the item is taken up for consideration. All speakers are requested to present their information to the Board as concisely as possible with a three (3) minute time limit. Allowing an individual to speak more than three minutes is at the discretion of the Chairperson of the Board. Speakers are encouraged to refrain from restating previous testimony. If a member of the **public does not wish to speak** but wishes the Board to have benefit of their position on an issue, they can present a **Comment Card (Peach)** which will be acknowledged by the Chairperson.

### **AGENDA**

The agenda is posted at the District Office no later than 24 hours preceding this Board meeting, and contains all items on which Board action will be allowed pursuant to Government Code Section 54956. Action will be taken on unanticipated items only when an emergency (as defined in Section 54956.5) exists or as otherwise allowed under Section 54954.2(b). All Board meetings are tape recorded in their entirety (excluding authorized closed sessions).

The business to be transacted is as follows:

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Additions or Amendments to the Agenda**
5. **Public Concerns** (items not on the agenda – three minute limit).

This is an opportunity for members of the public to address the Board on any item not on the agenda but under the subject matter jurisdiction of the Ojai Valley Sanitary District.

**CONSENT ITEMS:** - All consent items are considered in a single motion and voted on without discussion. Any item removed from the consent list at the request of a Board member or the public will be considered immediately following approval of the remaining consent items.

6. **Approval of Minutes** – Regular Meeting February 22, 2021 and Special Meeting March 4, 2021 (a recording of each meeting is retained at the District Office for a minimum of 4 years)
7. **Deferred Payment of Capacity Charges Agreements**
  - a. Approve the Agreements Affecting Real Property as listed below:  
024-0-101-020 Mouderrres-Roberts Family Trust  
019-0-010-415 Ann Kindberg Family Trust
  - b. Authorize the Chairman to sign the approved Agreements; and
  - c. Direct staff to record the Agreements with the County of Ventura Recorder's Office.
8. **Review of Disbursements/Checks For The Period of February 16, 2021 to March 16, 2021**

Review, receive and file the disbursements/checks as presented.

**ACTION ITEMS:**

9. Fiscal Years 2021-2022 & 2022-2023 Budget Preparation Schedule- Amended
  - a. Adopt the amended budget schedule as presented; and
  - b. Direct Staff to cancel the regularly scheduled Board Meeting in June scheduled for June 24<sup>th</sup>; and
  - c. Set a Special Meeting to be held on Monday June 21, 2021 instead of previously set date of Monday June 14, 2021 to conduct regular District business for the month of June and the 218 Hearing.
  
10. Mid-Year Financial Reports – Budget Adjustment No. 2021-18
  - a. Review proposed adjustments to Fiscal Year 2020-2021 Budget; and
  - b. Adopt Budget Adjustment No. 2021-18 transferring funds within the Administration, Collection System and Treatment Plant operational accounts to offset higher than anticipated expenditures in identified accounts and transferring funds from the Reserve accounts to provide funding for increased expenses in the Major Expenditures Accounts as follows:
    - Contingency and Stabilization Fund in the amount of \$21,327 for extra equipment and testing required for COVID-19 prevention and management and for contract costs pertaining to the Old Ops building design.
    - Collection System Replacement Reserve in the amount of \$35,000 for work related to BOKU.
    - Treatment Plant Replacement Reserve in the amount of \$24,362 for Treatment Plant Electrical Maintenance
  
11. Vehicle Replacement- Budget Adjustment No. 2021-21
  - a. Authorize staff to purchase a 2021 Ranger XL from Ford of Ventura for a cost not to exceed the quoted total price of \$26,262.37; and
  - b. Adopt Budget Adjustment No. 2021-21 transferring \$26,263 from the Vehicle Replacement Reserve into the Major Expenditures-Admin. to provide funding for the purchase of this vehicle.

12. Administrative Officer and Assistant Operations Manager Positions Re-Classification - Salary Grade & Benefits Adjustment – Resolution No. 2021-04
  - a. Approve the reclassification of the Administrative Officer and Assistant Operations Manager Positions
  - b. Adopt Resolution No. 2021-04, Resolution for the Adoption of the Ojai Valley Sanitary District Salary Schedule, and Position & Benefits Authorization, to become effective on March 23, 2021.
  
13. COVID Supplemental Pay and Leave Modification
  - a. Approve a one-time COVID supplemental payment to all employees except the General Manager, equivalent to 2 weeks of their respective pay.
  - b. Approve a one-time additional 80 hours of leave cash out for the 2021 calendar year to be exercised by the employee's option and discretion.
  
14. Proposed Ordinance No. OVSD-82 – Amendment of Chapters 1 & 3 Of The Ojai Valley Sanitary District Code of Regulations To Accommodate The Accessory Dwelling Unit Based On Changes To State Law; First Reading Pursuant To Government Code §36934
  - a. Consider amending the Ojai Valley Sanitary District Code of Regulations to accommodate the accessory dwelling unit-based changes to state law, as presented in Ordinance No. OVSD-82;
  - b. Conduct the first reading, by title only, of Ordinance No. OVSD-82; and
  - c. Direct staff to place Ordinance No. OVSD-82 on the April 26, 2021 agenda for the second reading, public hearing, and adoption.
  - d. Direct staff as to a selected retroactive date for the ADU Capacity Charge changes and direct staff to contact all affected property owner to adjust charges as required.
  - e. Direct staff as necessary to begin work on medium term and long term rate change studies and options.
  
15. Contract Nos. 2020-13 and 2021-03 – WWTP Crew Building Interior Accessibility Improvement Project – Budget Adjustment No. 2021-20
  - a. Find the Crew Building Interior Accessibility project to be Categorically Exempt in accordance with CEQA Section 15301(b) and the District's Administrative Supplement to The State CEQA Guidelines; and



- b. District staff to file a Notice of Exemption in accordance with CEQA Section 15062; and
- c. Approve and authorize the Chairman to sign contract, between Ojai Valley Sanitary District and EJS Construction, Inc., for the construction of the Crew Building Interior Accessibility Project in an amount not to exceed \$287,707; and
- d. Approve and authorize the Chairman to sign contract, between Ojai Valley Sanitary District and Mainstreet Architects and Planners, Inc., for construction phase services for the construction of the Crew Building Interior Accessibility Project in an amount not to exceed \$23,000; and
- e. Adopt Budget Adjustment 2021-20 transferring \$310,707 from the Building Reserve fund to the Major Expenditures-TP account to cover the cost of this project.
- f. Approve the plans and issue a permit under Government Code Section 53901 for construction of the building.

16. Purchase of Access Road to OVSD WWTP- Budget Adjustment No. 2021-19

Adopt Budget Adjustment 2021-19, transferring \$62,592.00 from the Contingency and Stabilization Fund to Major Expenditures T/P to cover all funds needed to close escrow.

17. Employee Flexible Spending Account Plan Amendment- Remove Debit Card Option- Resolution 2021-03

- a. Adopt Resolution No. 2021-03 adopting amended Flexible Spending Account Plan documents and authorizing Flexible Benefit Administrators, Inc. to revise the District's Plan; and
- b. Direct staff to forward the adopted amended documents to Flexible Benefit Administrators, Inc.

18. Review of Minutes of the Executive Committee, dated December 15, 2020

- a. Approve the amended minutes of the December 15, 2020 Executive Committee Meeting, as proposed by the Clerk of the Board

**OR**

- b. Provide direction as the board deems fit regarding the amendments or additions to the December 15, 2020 Executive Committee Meeting Minutes.

**INFORMATION ITEMS – FOR RECEIPT & FILE**

19. **Annual Connection Charge Reserve Report**
20. **Monthly Investment Report**
21. **Staff Reports - Operations, Administration and Management of the District**
22. **Committee Reports- Ordinance/Public Relations/Newsletter Committee Meeting March 12, 2021 and Personnel Committee Meeting March 16, 2021**
23. **Reports on Meetings, Seminars, or Conferences Attended**

24. **Board Member & General Manager Comment**

- a. Board Member Comments

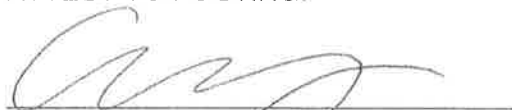
Opportunity for Board Members to briefly comment on matters they deem appropriate to the business of the District. A Board Member may ask a question of staff for clarification, make a brief announcement, or make a brief report on his/her own activities related to the District. A Board Member may also provide a reference to staff or other resources for factual information, or request staff to report back to the Board at a subsequent meeting concerning a matter related to the District business. The Board Member may also direct staff to place a matter of District business on a future Board agenda.

- b. General Manager Comments

25. **Adjournment**

A staff report providing more detailed information is available for most agenda items and may be reviewed in the District office during regular business hours (Monday through Friday from 8 a.m. to 5 p.m.). Copies of individual reports may be requested from the Clerk of the Board (646-5548).

ATTEST TO POSTING:

  
Alison Young – Clerk of the Board

**March 18, 2021 @ 3:00 p.m.**  
Date & Time Posted At District Office



## OJAI VALLEY SANITARY DISTRICT

A Public Agency

1072 Tico Road, Ojai, California 93023

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March 18, 2021

Board of Directors  
Ojai Valley Sanitary District  
Ojai, CA 93023

PROPOSED ORDINANCE NO. OVSD-82 – AMENDMENT OF CHAPTERS 1 & 3 OF THE OJAI VALLEY SANITARY DISTRICT CODE OF REGULATIONS TO ACCOMMODATE THE ACCESSORY DWELLING UNIT BASED ON CHANGES TO STATE LAW; FIRST READING PURSUANT TO GOVERNMENT CODE §36934

### BACKGROUND

Since the enactment of SB 1069 in 2016 which made major changes to the state land use planning and zoning laws regarding second units, granny flats and carriage units atop garages in order to address the state's housing shortage crisis, Government Code §65852.2 has undergone a major transformation that has placed a burden on general local land use authorities and special utility districts to adapt their rules and regulations to accommodate accessory dwelling units (ADU). Complicating matters from the very beginning of the statewide effort to understand and implement newly revised section 65852.2 were legislative efforts in 2017 and 2018 to revise its provisions in the wake of those interpretation and implementation concerns. While most of those concerns have been addressed in subsequent legislative enactments (i.e., AB 2299, AB 2406, SB 229 and AB 494), there remains a very real and potentially debilitating problem of compliance with California Constitution, art. XIII D (see Prop. 218) and whether the fees, charges and rates affected by section 65852.2 are fair, reasonable, and equitable in nature and proportionately representative of the costs incurred by regulatory agencies.

For several years, through internal review, consultant studies and participating with CASA on statewide flow and loading studies, OVSD has been reviewing rate structures for both Capacity Charges and Sewer Service Charges. These efforts have included 2<sup>nd</sup> unit inspections as well as flow testing of various mobile homes and residential neighborhoods.

Several recent Board discussions and Study Sessions have included analysis of proportionality technical issues as well as legal issues relating to the California Constitution and Proposition 218, among others. All of these efforts have focused on determining the best method to review flow from various size homes as well as review distance to the various drainage basins. Among the challenges to determine substantial evidence of flow characteristics include lack of water use data due to legal issues, lack of plumbing fixture data on the nearly 10,000 residential units in our service area, lack of occupancy data as well as incomplete residential unit descriptor data such as square footage. All of

ITEM 14-1

the data gaps create a concern over substantial evidence on precise flow and loading from each property.

On March 12, 2021, the Ordinance Committee met and discussed a plan that included short term, medium term, and long-term actions. These included adoption of a revised ADU Capacity Charge ordinance in the short term and outlined a 6–12-month long term plan to determine potential changes to the remainder of the Capacity Charges to other residential units and all residential units for Sewer Service Charges that were more proportional. A copy of that outline and Committee package is attached. The Committee recommended that the full Board consider just the short term, ADU Capacity Charge ordinance at this time and discuss action plans for the medium- and long-term options at a later date.

There are three proposed items for discussion as part of this action: (1) make the proposed changes to the District Code to address ADU Capacity Charges, (2) discuss and implement as directed a retroactive provision as to which recent properties may be included in the revised ADU fee structure, and (3) discuss and direct Staff as to actions related to proportionality of Capacity Charges for non-ADU structures and Sewer Service Charges for all residential properties.

#### PROPOSED AMENDMENTS

The proposed amendments to OVSD Code of Regulations, Chapters 1 (General Provisions) and 3 (Fees, Rates, Charges and Other Financial Matters) are more definitional in nature. Any changes to actual fees, rates and charges imposed by OVSD will await the completion of a fee and rate study under the long-term options discussed above. Staff will bring action items, and potentially a consultant study recommendation for future rate changes. Those future actions may be a second set of amendments to these chapters as well as compliance with Prop. 218 notice and hearing procedures for changes to property-related fees, rates, and charges.

In addition to numerous changes to wording, grammar and punctuation in Chapters 1 and 3 to improve readability and enforceability, the main attraction and reason for these proposed amendments is to accommodate the recent ADU based changes to state law. Namely, Government Code section 65852.2 has required infrastructure utilities like OVSD to address its regulations in order to meet the mandates in section 65852.2. You will see these changes in the following sections:

- 101.10 (Definitions) page 1-12 – “Single Dwelling Unit” and the addition of “Accessory Dwelling Unit”
- 301.4 (Application of Capacity Charge) – reference to interior ADU being exempt from sewer connection and connection fee requirement.
- 301.9 (Person Responsible) – made applicable to parcel owner or customer with an ADU or planning to build an ADU
- 302.7.1 (Computation of Sewer Service Charges / Residential Use) -- addition of ADU to Group 1 Residential with a factor of 1

There have been numerous changes to housing laws in the past 5 years. There are over 30 laws that have been passed to address various areas of land use decisions.

Many of these laws affect local agencies in their approval of ADU's. A few of the laws do affect how OVSD reviews, approves and charges fees for ADU's.

For our review, we looked at the housing laws, particularly Sec. 65852.2 that was in effect between January 1, 2003 and December 31, 2016. In Section (f), it states: "Fees charged for the construction of second units shall be determined in accordance with Chapter 5 (commencing with Section 66000). There was no specific language in this section of the Code that required proportionality. The proportionality elements of charges was governed by the California Constitution and Proposition 218. District Legal Counsel has previously discussed the overlap and conflict between Sec. 65852.2, Sec. 66013 and Prop. 218.

Effective January 1, 2017 to December 31, 2017, Sec. 65852.2 still included the language above, however in Sec. (f)(1)(B), language was added that states "...based on either its size or number of its plumbing fixtures". Again, District Legal Counsel has provided opinions on this language. There was also language stating "...consistent with Sec. 66013".

Effective January 1, 2018 to December 31, 2019, Sec. 65852.2 was amended to include some language about local agencies and special districts. However the language relating to proportionality did not change.

Effective January 1, 2020 to September 24, 2020, Sec. 65852.2 was amended again. There was a reference to impact fees in Subsection (f)(3)(A) and a reference to a 750 square foot limitation. However, in Subsection (f)(3)(b), it states that "Impact Fee" does not include any connection or capacity charge. In Subsection (f)(5), it states "...based upon either its square feet or the number of its drainage fixture unit (DFU) values".

Effective January 1, 2021 to current, the language of 65852.2 remains the same.

Through the revisions listed above, proportionality based on plumbing fixtures was introduced effective January 1, 2017. There have been various revisions, however, the label Drainage Fixture Units (DFU) was introduced on January 1, 2020. All of the proportionality legal issues are governed by a variety of state laws, some of which are in conflict as stated previously by legal counsel.

While implementing the ADU Capacity Charge Ordinance, discussions of retroactivity dates should look at each of the previous versions of Sec. 65852.2.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

In terms of California Environmental Quality Act compliance, these proposed amendments to the OVSD Code of Regulations are statutorily exempt per CEQA Guidelines §15273 which states in pertinent part that "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies . . . ." Upon the second and final reading of this proposed code of regulations amendment, District staff will recommend that the Board approve and adopt the use of a Notice of Exemption (CEQA Guidelines §15062) for this

regulatory project and for the District staff file the Notice of Exemption in accordance with state law and regulations.

#### PROCEDURAL DUE PROCESS

There are several hearing, notice, and publication procedures related to adoption of this ordinance. Government Code 6066 requires the notice of the public hearing, together with a general explanation of the ordinance, be published in a newspaper of general circulation in the District. After the public hearing, and presuming the ordinance is adopted in its present form, the ordinance must then be published or posted and can take effect upon expiration of the week of publication or posting. The ordinance, if passed in present form following public hearing recommended for April 26, 2021 may take effect May 5, 2021.

Attached to this Board letter is a version of the proposed amendments to Chapter 1 and 3 showing deletions and additions. Also attached is version of the proposed amendments accepting the changes in a clean, final format. Both of these versions are provided for the public's and the Board's convenience.

#### RECOMMENDATIONS

It is recommended the Board:

- a. Consider amending the Ojai Valley Sanitary District Code of Regulations to accommodate the accessory dwelling unit-based changes to state law, as presented in Ordinance No. OVSD-82;
- b. Conduct the first reading, by title only, of Ordinance No. OVSD-82; and
- c. Direct staff to place Ordinance No. OVSD-82 on the April 26, 2021 agenda for the second reading, public hearing, and adoption.
- d. Direct staff as to a selected retroactive date for the ADU Capacity Charge changes and direct staff to contact all affected property owner to adjust charges as required.
- e. Direct staff as necessary to begin work on medium term and long term rate change studies and options.



Jeff Palmer  
General Manager

**OJAI VALLEY SANITARY DISTRICT**

**ORDINANCE NO. OVSD-XX**

**AN ORDINANCE AMENDING THE OJAI VALLEY SANITARY DISTRICT CODE OF REGULATIONS TO ACCOMMODATE AND COMPLY WITH CHANGES TO STATE LAW REGARDING ACCESSORY DWELLING UNITS**

**RECITALS**

**WHEREAS**, the Ojai Valley Sanitary District ("District") was formed under the Sanitary District Act of 1923 (Health and Safety Code § 6400 *et seq.*) ("Act"); and

**WHEREAS**, Health and Safety Code §§ 6491.1, 6520, 6520.2 and 6521(c) of the Act authorizes the District to adopt regulations to control and maintain its sewer system by regulating connections to the sewer system through a permit system; and

**WHEREAS**, the District is required to establish regulations to protect its wastewater treatment works, the public health, safety and welfare, and the environment as provided by State and Federal law including the Porter-Cologne Water Quality Control Act (California Water Code, Division 7), the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (Title 40, Code of Federal Regulations Part 403); and

**WHEREAS**, the District is authorized by its enabling legislation and other State and Federal law referenced above to adopt reasonable and necessary regulations to control and regulate the use of the District's sewer system, prevent sanitary sewer overflow and protect the public health, safety and welfare; and

**WHEREAS**, this proposed Ordinance amends District Code of Regulations, Chapters 1 & 3 to accommodate and comply with the changes to State law regarding accessory dwelling units ("ADU") which consider ADUs as a lower cost housing alternative to meet the needs of existing and future residents and as an essential component of California's housing supply (Gov. Code §§65852.2); and

**WHEREAS**, this proposed Ordinance most likely will result in changes to actual District fees, rates and charges for the provision of sanitary sewer collection and treatment which will then be implemented through the adoption of a second set of amendments to the District Code of Regulations in compliance with Cal. Const. arts. XIII C-XIII D (i.e., Prop. 218) and Government Code §53750 *et seq.* process procedures for changes to property-related fees, rates and charges; and

**WHEREAS**, the District takes this action to amend its Code of Regulations with the knowledge that certain provisions within Government Code §65852.2 impose an unfunded state mandate upon the District that may be in conflict with California Constitution Articles XIII C and XIII D; and

**WHEREAS**, this Ordinance action is a statutorily exempt project under the California Environmental Quality Act pursuant to title 14, California Code of Regulations ("CEQA Guidelines"), §15273; and

**WHEREAS,** the District Board of Directors takes this ordinance amendment action with the understanding that if any portion of this Ordinance or the application thereof is held to be unconstitutional or for any reason determined to be invalid by a court of competent jurisdiction, the validity of all remaining portions and applications shall be unaffected, and they shall remain in full force and effect and

**NOW, THEREFORE,** the Board of Directors of the Ojai Valley Sanitary District does hereby ordain as follows:

- A. Ordinance No. OVSD-XX is subject to review under the California Environmental Quality Act (CEQA), but is statutorily exempt per CEQA Guidelines §15273 which states in pertinent part that "CEQA does not apply to the establishment, modification, restructuring, or approval of rates, tolls, fares, and other charges by public agencies . . . ."
- B. Direction is given to District staff to file a CEQA Notice of Exemption with the County Clerk of the County of Ventura for Ordinance No. OVSD-XX in accordance with CEQA Guidelines §15062.
- C. The above recitals are true and incorporated herein by this reference.
- D. The findings and determinations set forth in this Ordinance constitute the independent findings and determinations of the District Board in all respects and are supported by the substantial evidence in the administrative record for this matter as a whole.
- E. The Ojai Valley Sanitary District Code of Regulations is amended to add revised Chapters 1 & 3 to read as set forth in attached "Exhibit A" incorporated by this reference.
- F. This amended Ordinance shall be published or posted in accordance with Health and Safety Code §6490 with the provisions of this amended Ordinance taking effect and becoming enforceable on XXXXXXXX.



Ordinance No. OVSD-82  
Page 3

**PASSED AND ADOPTED** by the governing board of the Ojai Valley Sanitary District on this \_\_\_\_xxxx\_\_ day of \_\_\_\_\_xxxxxxx\_\_\_\_\_, 20xx, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Stephen L. Quilici, Chairman  
Board of Directors

\_\_\_\_\_  
William M. Stone, Secretary  
Board of Directors

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**“EXHIBIT A”**

**Chapter 1**  
**General Provisions**

**SECTION 100. Code Adoption**

**100.1 Short Title; Reference to Code**

This Code shall be known as the “Ojai Valley Sanitary District Code of Regulations.” This Code may also be referred to as the “Ojai Valley Sanitary District Code.” Portions of this Code may be designated as an addition or amendment to, or a repeal of, the “Ojai Valley Sanitary District Code.”

**100.2 Codification Authority**

This Code is adopted pursuant to the provisions of the Sanitary District Act of 1923 (California Health & Safety Sections 6400 et seq.) and other provisions of law that empower the District to enact regulations. This Code references applicable sections of State and Federal law. In the event that these statutory references are updated by new law or regulation, it is the intent of this Code that the successor statute will govern the District’s authority.

**100.2.1** District approval shall be required and applicable fees shall be paid prior to any construction, installation, alteration, repair, opening, uncovering, extending, connecting to, or other work related to any system discharging into public sewers. Contracts awarded under certain Emergency situations do not require prior approval of the Board of Directors.

**100.2.2** District approval shall be required prior to the use of any system discharging to District Sewer System. A District Permit for Non-Domestic Wastewater Discharge shall be required prior to any discharge of non-domestic wastewater directly or indirectly to District Sewer System.

**100.3 Effective Date**

This Code takes effect upon the effective date of the ordinance of the Board of Directors of the Ojai Valley Sanitary District whereby this Code is adopted.

**100.4 Severability and Validity of Code**

If any section, subsection, sentence, clause, phrase or portion of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code. The Board hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

#### **100.5 Distribution of Code**

At least one (1) duly certified copy of this Code shall be filed for use and examination by the public in the office of the District Clerk. Additional copies shall be prepared in loose-leaf form in such binders as the District Clerk may prescribe. Copies thereof shall be distributed as determined by the District Clerk.

#### **100.6 Amendments**

The District Clerk, or other District Representative, shall prepare copies of such changes in the Code for insertion in the loose-leaf copies thereof. Every portion of the Code so changed shall have printed thereon a notation of the ordinance number pursuant to which such change is adopted. All amendments shall be published in a newspaper published in the District and shall take effect upon the expiration of the week of publication pursuant to California Health and Safety Code Section 6490.

#### **100.7 Notation of Amendments**

Upon the adoption of any amendment or addition to this Code, or upon the repeal of any of its provisions, the District Clerk shall certify thereto and shall make an appropriate notation in the volumes of said Code of the taking of such action, noting thereon the number of the ordinances pursuant to which such action is taken. Duly certified copies of every ordinance making changes in such Code shall be filed in the office of the District Clerk in books for such purpose, duly indexed for ready reference.

#### **100.8 District Fees and Charges**

This Code sets forth District Capacity Charges, Sewer Service Charges and Debt Service Charges, and Fees for Sewer-System Related Services in Chapter 3, Appendices B, C and D, respectively. Said charges and fees, as set forth in said appendices, may be amended by the Board from time to time in accordance with this Code and other applicable law. In addition to the fees and charges imposed and collected by the District pursuant to this Code, the District may levy, assess and collect other fees, charges, penalties, refunds, reimbursements of any kind in accordance with applicable law.

#### **100.9 Prior Ordinances and Regulations**

This Code is intended to be a compilation of selected ordinances and regulations of general application governing the organization and functioning of the Ojai Valley Sanitary District as those ordinances and regulations have been adopted by the District's Board of Directors. The provisions of this Code which are substantially the same as existing District ordinances and regulations shall be construed as restatements and continuations of those ordinances and regulations, and not as new enactments. Therefore, this Code supersedes those prior ordinances and regulations from which it was compiled, and which were in effect on the effective date of this Code. All such prior ordinances and regulations shall be deemed amended to read as provided in this Code. This Code also supersedes all existing ordinances and regulations of the District that are contrary to or inconsistent with the provisions of this Code.

The District ordinances and regulations listed in Appendix A of this Chapter are not superseded by this Code, and shall remain in full force and effect until otherwise amended or repealed:

**100.10 Pending Proceedings**

Any action or proceeding commenced before this Code takes effect, and any right accrued, is not affected by this Code, but all actions or proceedings commenced after the effective date of this Code shall, where applicable, conform to the provisions of this Code.

**100.11 Conflict with State Codes**

Any provision of this Code in conflict with any provision of the governing codes of the State of California due to revisions made in such governing codes shall be automatically superseded by said revisions.

**SECTION 101. RULES OF CONSTRUCTION; DEFINITIONS**

**101.1 Construction**

Unless the provisions or the context require otherwise, the general provisions, rules of construction and definitions set forth below shall govern the construction of this Code. The provisions of this Code and all proceedings under it are to be construed with a view to accomplishing its objects and promoting justice.

**101.2 Effect of Headings**

Chapter, section and subsection headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, section or subsection of this Code.

**101.3 Prohibited Acts include Causing, Permitting or Suffering**

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering or concealing such act or omission.

**101.4 Reference Applies to Amendments**

Whenever a reference is made to any portion of this Code, or to any ordinance or regulation of the District, the reference applies to all amendments and additions now or hereafter made.

**101.5 Service of Notices**

Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified, at his or her last known business or residence address as the same appears in the public records of Ventura County pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

#### 101.6 Proof of Notice

Proof of giving any notice may be made by the certificate of any officer or employee of the District, or by affidavit or declaration under penalty of perjury as provided by the California Code of Civil Procedure Section 2015.5 of any person over the age of eighteen years, which shows service in conformity with this Code, or other provisions of law applicable to the subject matter concerned.

#### 101.7 Tenses

The present tense includes the past and future tenses.

#### 101.8 Gender

The masculine gender includes the feminine and neuter.

#### 101.9 "Shall" and "May"

"Shall" is mandatory and "may" is permissive unless the context requires otherwise.

#### 101.10 Definitions

The following words and phrases, whenever used in this Code, will have the following meanings, unless from the text a different meaning is construed:

Accessory Dwelling Unit or ADU shall mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. (Ord. 82, 2021)

Commented [AMY1]: ADU Definition being added here.

Applicant: The person making application for permission for a sewer or plumbing installation and shall be the owner of premises to be served by the sewer for which permission is requested or his authorized agent.

Basic Sewer Service Charge: A District charge to each Parcel served by the District Sewer System to recover the sum total of sewer system and treatment plant operation costs, maintenance and replacement costs, general administration and accounting costs for providing service, capital costs and District expenditures deemed necessary to conduct the lawful business of the District (see Appendix C in Chapter 3), with the exception of the Debt Service Surcharge.

Board of Directors: The governing board of the Ojai Valley Sanitary District of Ventura County. (Also referred to as "District Board," "Board Members" or "Board.")

Biochemical Oxygen Demand (BOD): The quantity of oxygen required in the biological oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

**Capacity Charge:** A one-time Charge for a new connection to the District Sewer System or expansion of use to the sewer system to cover a Parcel's proportionate cost of: (1) the existing District Sewer System benefit conveyed to the Parcel being charged; and (2)

the new District Sewer System Facilities to be acquired or constructed in the future that are of proportional benefit to the Person or Parcel being charged.

**Capacity Unit:** A unit of measurement based upon the wastewater flow derived from industry standards. A single Capacity Unit equals the average wastewater flow generated by a Single Dwelling Unit two hundred (200) GPD or 25 Drainage Fixture Units.

Commented [AMY2]: Adding to this section

**Code:** The Ojai Valley Sanitary District Code of Regulations as approved and adopted by the District Board and as it may be amended from time to time. (Also referred to as the "Ojai Valley Sanitary District Code.")

**Collection System:** The District's publicly owned and operated system of conduits and underground pipes (Local and Trunk Sewers) which receive and convey sanitary wastewater to the District's Treatment Plant.

**Connection:** A physical connection between any type of piping (or any other sewage conveyance system) not owned by the District to another type of piping which is directly or indirectly connected to the District's Sewage System.

**Connection Fee:** A fee paid by a new District Sewer System user for the capital costs of capacity made available for his or her use.

**Contractor:** An individual, firm, corporation, partnership or association duly licensed by the State of California to perform the type of work to be done.

**County:** The County of Ventura, unless otherwise specified.

**Customer:** The Owner of a Parcel of land, as defined by the Ventura County Assessor's Office, being provided with District Sewer System service.

**Day:** Calendar day, unless otherwise specified.

**Debt Service Surcharge:** A District charge levied on each Parcel connected to the District Sewer System to fund or pay for the debt service on the 2003 Series Bond Issue which funded necessary improvements to the City of Ojai's 1927 collection system so that could be compatible with the District's existing Collection System when the City of Ojai consolidated its sewer system with the District's.

**Director:** Member of the District's elected governing Board. (Also referred to as "Board Member" or "Member.")

**Discharger:** Any person discharging sanitary wastewater, sewage, liquid waste or industrial waste to the District's Sewer System.

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District: Ojai Valley Sanitary District, a sanitary district organized and existing under the laws of the State of California, and located in the County of Ventura, California.

District Representative: Any person authorized by the District Board or General Manager to act on the District's behalf in carrying out the administrative, operational or any other functions of the District.

District Sewer System: Collectively, all of the property, pipes, pumps, structures and appurtenances for collecting, transporting, conveying, treating and disposing of Sewage, which was acquired, constructed and financed by the Ojai Valley Sanitary District with funds derived from the sale of revenue bonds, general obligation bonds, or otherwise. (Also referred to as "District Sewage Facility," "District Sewerage Facility," or "District Wastewater Facility.")

Domestic Sewage: The liquid and water born waste derived from the ordinary living processes, free from non-domestic wastewater and of such character as to permit satisfactory disposal, without special treatment, into the District Sewer System. (Also referred to as "Residential Wastewater.")

Easement: A properly right, however created, by which the owner of the easement is entitled to make specified uses of real property owned by another.

Emergency: A condition which creates imminent danger to the public health, safety or welfare, or otherwise significantly impairs the District's ability to provide sewer service to its ratepayers.

Encroachment: An activity or condition which results in significant interference with the Easement rights of the owner of an Easement. As respects District easements, there are three classes of Encroachments:

Class One:

Encroachments which interfere only slightly with District easements. Examples may include loose paving stones and similar landscaping features, flowerbeds, small shrubs, lawn and ground covers which do not impede normal use and operation of the District's Sewer System and may readily be removed and restored at a modest cost if access to that system is required.

Class Two:

Encroachments which will cause significant interference with District Easements but which, due to being readily removable or by virtue of District mandated safeguards and/or mitigation measures, the interference can be ameliorated to an acceptable level. Examples may include fences, gates, driveways, paving, portable or readily removable structures, larger vegetation whose roots do not have a propensity to invade wastewater facilities, and cuts and fills.

Class Three:

Encroachments which will cause significant interference with District Easements. Examples may include permanent structures such as buildings, swimming pools, permanent decks, retaining walls and



reinforced concrete or masonry; temporary structures which are not readily removable from the Easement; also trees, heavy brush, and vegetation that prevents District access to its facilities in the Easement; also any activities and conditions that are unlawful or prohibited by this Code or by other applicable laws.

Fees for Sewer System-Related Services: Miscellaneous fees imposed upon Parcel Owners for District services related to and necessary for the District's providing sewer service, including, without limitation, plan check fees, processing fees, inspection fees, permit fees, line cleaning and maintenance fees, violation abatement or correction fees, annexation fees, returned check fees, sewer atlas update fees and recording fees.

Food Preparation Area: An area containing plumbing fixtures, appliances, or devices commonly used for: (1) heating or cooking food; (2) refrigerating food; and (3) washing utensils used for dining and food preparation and/or for washing and preparing food. Permanent removal of two of the three above-numbered elements will result in the elimination of a Food Preparation, provided the Parcel Owner is required to remove the elements pursuant to an "Agreement to Cease an Unpermitted Connection" executed in the manner authorized by Chapter 10, Section 1014. (*Ord. 75, 2015*)

General Manager: The person appointed by the Board of Directors to administer and enforce the rules and regulations of the District. (Also referred to as "District Manager" or "Manager.")

Governing Body: The Ojai Valley Sanitary District Board of Directors is the governing body of the District. The Board is the governing power of the District, and exercises all District powers. (Health & Safety Code §6481) The Board receives its power from the California Constitution and State laws passed by the legislature, including the District's principal act, the Sanitary District Act of 1923, Health & Safety Code §6400 et seq.

Gallons per Day (GPD): Gallons of wastewater generated per day.

Industrial Wastewater: Any Wastewater containing solid, liquid, gaseous or radioactive substances that is discharged, flowing or permitted to escape from any producing, manufacturing, processing, institutional, commercial, agricultural or similar operation into the District Sewer System, and which Wastewater results from the development, recovery or processing of any material resource.

Inspection: The act of reviewing any or all Sewer construction work for the purpose of determining compliance with the District Code, and all other applicable laws, rules or regulations.

Inspector: The person appointed by and acting for the General Manager to inspect Wastewater generation, conveyance, processing and disposal facilities within the District's jurisdiction.

Interceptor: A device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge by gravity.

Lateral: A sewer beginning at the foundation wall of any building or structure and terminating at the District Sewer System, which sewer connects the building or structure to the District Sewer System. The Lateral includes the connection facility by which the Lateral is connected to the District Sewer System. (Also referred to as "Side Sewer.")

Law: Denotes applicable federal law, the constitution and statutes of the State of California, the ordinances of the District, and any and all rules and regulations which may be promulgated thereunder.

Liquid Waste: The discharge from any plumbing fixture, which does not receive fecal matter.

Local Sewer: That portion of the District Sewer System which directly receives Wastewater from the Lateral of a Discharger.

Local Sewer Capacity Charge: A Capacity Charge based upon the District's Local Sewer facilities in existence at the time the charge is imposed. The Local Sewer Capacity Charge is calculated by dividing the total replacement cost of the District's Local Sewer facilities by the total Capacity Units accessing those facilities. Accordingly, the Local Sewer Capacity Charge equals each Parcel's proportionate share of the total replacement cost of the District's existing Local Sewer facilities and is, therefore, proportionate to the benefit received by that Parcel.

Manufactured Home: A structure which is transportable in one or more sections and, when erected, meets the District's criteria for a Single Dwelling Unit. (Ord. 69, 2012)

Mobile Home: A structure which is transportable in one or more sections and, when erected, meets the District's criteria for a Single Dwelling Unit. (Ord. 69, 2012)

Mobile Home Space: An area within a Premises with facilities by which a Mobile Home may be connected to the District's Sewer System.

Multifamily Manufactured or Mobile Home: A structure which is transportable in one or more sections and, when erected, meets the District's criteria for two or more Single Dwelling Units. (Ord. 69, 2012)

Non-Domestic Wastewater: Shall mean same as Industrial Wastewater.

Non-Residential: Use of a Parcel that does not include any habitation.

Non-Residential Wastewater: See "Non-Domestic" Wastewater.

Nuisance: A discharge of Sewage in violation of District regulations or orders which is or could be harmful to, or unreasonably affect, the Sewer System, or which impairs or unreasonably affects the operation and maintenance of the District's Sewer System, or which violates quantity, quality or other standards adopted by the District, or which places an unreasonable burden on the District's ratepayers.

**Occupant:** Any person actually occupying any premises whether as owner or tenant or under contract or otherwise.

**Owner:** The record owner of a Parcel as shown by the official records of the Ventura County Recorder, Ventura County Assessor or the holder of any possessory interest in publicly owned property.

**Parcel:** A single lot of land for which a legal description has been filed on record, or the boundaries of which are shown on a subdivision map or a record of survey map, filed in the office of the Ventura County Recorder.

**Permit:** A formal authorization or approval by the District to engage in or undertake specified conduct or activities. This authorization/approval may be subject to limitations or conditions.

**Person:** Any human being, individual, firm, company, partnership, association and private, public or municipal corporations, the United States of America, State of California, districts and all political subdivisions and governmental agencies thereof.

**Premises:** Any lot, piece, or Parcel of real property improved or unimproved within the boundary of the District.

**Public Sewer:** A common sewer lying within a public way or Easement, which is controlled by or under the jurisdiction of the District, and which receives flows from buildings or structures connected thereto.

**Recreational Vehicle:** A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation or recreational, emergency, or other occupancy, meeting the District's criteria for a Single Dwelling Unit. (*Ord. 69, 2012*)

**Recreational Vehicle Park (RV Park):** Is any recreational vehicle park subject to a permit issued by either the Department of Housing and Community Development or other enforcement agency pursuant to the Special Occupancy Parks Act (Health and Safety Code Section 18860 et seq.). (*Ord. 69, 2012*)

**Recreational Vehicle Space:** Is any area within a Recreational Vehicle Park designed to accommodate a Recreational Vehicle in a manner that provides that Recreational Vehicle with the means to connect directly or indirectly to the District's Sewer System. (*Ord. 69, 2012*)

**Sanitary Sewer:** A conduit that conveys sewage or non-domestic wastes or a combination of both, and into which storm waters, surfaces, and ground waters and unpolluted waters are not admitted. See also Government Code section 53750(k).

**Service Unit (SU):** A measure of sewer service provided to a Parcel based upon the volume and strength of the Parcel's wastewater flow. The method used by the District to calculate Service Units for a given Parcel depends on the application of criteria and formulas derived by the District based on industry standards.

**Sewage:** A combination of water-carried wastes from residences, business buildings, institutions and industrial establishments.

**Sewer:** A pipe or conduit for carrying sewage.

**Sewer Service:** The services and facilities for collection, treatment and disposal of Sewage furnished or available to a Parcel by the District Sewer System.

**Sewer Service Charge:** A charge imposed to recover the sum total of sewer service costs represented by the Basic Sewer Service Charge and the Debt Service Surcharge.

**Single Dwelling Unit:**

For purposes of determining the Capacity Fee for a Capacity Unit, a single dwelling unit shall be anyone of the following:

~~a. An Accessory Dwelling Unit (ADU) that is either attached to an existing principal residence or is a stand alone structure on the same parcel as the principal residence as defined by Government Code §65852.2, paragraph (i)(4) or is within an existing structure as defined by Government Code §65852.2, subdivision (e).~~

Commented [AMY3]: ADU definition being removed from here

a. A room or rooms connected together (whether or not constructed in compliance with applicable governmental regulations) with all of the following: (a) an independent exterior access, (b) a Food Preparation Area, (c) a multi-purpose or bedroom area, and (d) a toilet.

b. Any trailer, boat, motor home or other Recreational Vehicle connected to the District's Sewer System, either permanently or for a temporary period exceeding thirty (30) days, except when occupying a Recreational Vehicle Space.

c. Notwithstanding any other provision of this Code of Regulations, where a structure located on a Parcel is not subject to an "Agreement to Cease an Unpermitted Connection" executed in the manner authorized by Chapter 10, Section 1014, the structure may be deemed a Single Dwelling Unit under the following circumstances:

1. Where one or more structures are located on a Parcel and connected to the District Sewer System (and none of the structures satisfy the Single Dwelling Unit definitions set forth in paragraphs a, b, and c, above, or fall within the non-residential or mixed use classifications established by this Code), the District may treat all the structures, collectively, as the equivalent of one Single Dwelling Unit [For example, if three structures located on a Parcel are connected to the District Sewer System but none of the structures satisfy the Single Dwelling Unit definitions set forth in paragraphs a, b or c, above, or otherwise fall within non-residential or mixed use classifications established by this Code, the District may treat all of the structures on the Parcel, collectively, as the equivalent of one Single Dwelling Unit.]; or

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2. A structure located on a Parcel may be deemed a Single Dwelling Unit where the General Manager or his designee determine that the structure has been designed, modified or constructed to accommodate the installation of a Food Preparation Area and all other elements necessary to define the structure as a Single Dwelling Unit are present. This determination shall be based on either one of the following criteria:
  - A. Final permits, plans and/or specifications filed with a government entity approving construction of a Food Preparation Area within the structure; or
  - B. Direct observation by the General Manager or his designee of infrastructure within a structure that is configured in a manner commonly required for and associated with the installation of a Food Preparation Area. That infrastructure may include, without limitation, plumbing, electrical outlets and/or gas lines installed to accommodate a grouping of appliances for (1) heating or cooking food; (2) refrigerating food; and (3) the washing of utensils used for dining and food preparation and the washing and preparation of food. (*Ord. 69, 2012*) (*Ord. 75, 2015*)

Special Use Permit: A permit issued by the General Manager, in accordance with District regulations, allowing a Parcel Owner or other Person to make temporary or special use of District Sewer System including, without limitation, temporary or special connections to the system. (*Ord. 75, 2015*)

Street: Any public highway, road, street, avenue, alleyway, public place, public Easement or right of way within the District.

Suspended Solids (SS): Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

Treatment Plant: The arrangement of devices and structures owned and used by the District to treat Wastewater. (Also referred to as "Treatment Facility.")

Treatment Plant Capacity Charge: A District charge equal to a Parcel's proportionate share of the total replacement cost of unused treatment plant capacity which is also proportionate to the benefit received by the Parcel.

Trunk Sewer: The sewer in any public Street or Easement constructed to accommodate more than one Local Sewer.

Trunk Sewer Capacity Charge: A District charge equal to each Parcel's proportionate share of the total replacement cost of the District's existing Trunk Sewer facilities which is also proportionate to the benefit received by that Parcel. The Trunk Sewer Capacity Charge is calculated by dividing the total replacement cost of the District's Trunk Sewer facilities by the total number of Capacity Units accessing those facilities. .

Unpermitted Connection: Any connection to the District's Sewer System without required District authorization or permits. (*Ord. 69, 2012*)

Uniform Plumbing Code: The most current edition of the uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials.

User: Owner responsible for payment of Sewer Service Charges and other applicable fees for a Premise served by the District as provided in this Code.

Vehicle: A device that may be used to transport people or things.

Wastewater: All water-borne Sewage, industrial or other wastes, whether treated or untreated, discharged into or permitted to enter the District Sewer System.

Wastewater Facilities: Pipelines, pump stations and other structures, equipment and machinery which are used to collect and convey Wastewater and, in some contexts, to treat and dispose of Wastewater. (*Ord. 69, 2012*)

## **SECTION 102. Administration**

### **102.1 General Manager**

The General Manager shall be the administrative head of the Ojai Valley Sanitary District under the direction of the Board of Directors. The General Manager shall be responsible for the efficient and effective administration of the day-to-day operations of the District.

### **102.2 Enforcement Authority**

The General Manager shall enforce this Code, all ordinance and policies of the District, and see that all contracts, Permits and agreements that are approved by the Board of Directors are carried out in accordance with the District Board's direction.

### **102.3 District Public Information Officer**

The General Manager shall also be the District Public Information Officer, which includes being responsible for all media contact in relation to the business of the District.

## **SECTION 103. District Policies and Procedures**

The District Board may, by ordinance or resolution, adopt policies and procedures to guide the District in the performance of its lawful activities. The District Clerk shall maintain these policies and procedures in loose-leaf form in such binders as the District Clerk may prescribe. The binders shall be updated by the District Clerk, as required. Said binders shall be filed for use and examination by the public in the office of the District Clerk. Copies thereof shall be distributed as determined by the District Clerk.

## **SECTION 104. Violations of Code**

The following conduct within the jurisdiction of the District is hereby deemed a violation of this Code:

**104.1** It shall be unlawful for any person to construct, rebuild, use, occupy or maintain, within the jurisdiction of the District, any residence, place of business or other

building where persons reside, congregate or are employed which is not provided with means for the disposal of sewage by either connection to the public sewer system maintained by the District or other lawful means.

**104.2** Unless otherwise provided by this Code or other applicable law, it shall be unlawful for any person to construct, install, provide, maintain or use within the jurisdiction of the District any means of sewage disposal other than connection to the public sewer system maintained by the District.

**104.3** It shall be unlawful for any person to connect to the public sewer system maintained by the District except in the manner provided by this Code, and all other applicable local, state or federal laws.

**SECTION 105. Mailing and Office Address**

The official office and mailing address of the Ojai Valley Sanitary District are as follows:

Ojai Valley Sanitary District  
1072 Tico Road  
Ojai, California 93023

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### APPENDIX A

1. Ordinance No. 14: "An Ordinance of the Ojai Valley Sanitary District Governing the Selection of Contractors to Perform Public Projects pursuant to Public Contract Code Section 22032 under the Uniform Public Construct Cost Accounting Act"; (Adopted November 6, 1989, Effective November 18, 1989).
2. Ordinance No. 38. "An Ordinance of the Board of Directors of the Ojai Valley Sanitary District Amending Ordinance No. OVSD-1, Revising Maximum Payback Agreement Life", (Adopted May 24, 1999, Effective June 7, 1999).
3. Ordinance No. 65: "An Ordinance of the Board of Directors of the Ojai Valley Sanitary District adopting Policies and Procedures Governing Public Project Contracts, Professional Service Contracts, The Purchase of Supplies, Equipment and Services, and the Disposal of Surplus Property, (Adopted May 23, 2011, Effective July 1, 2011).
4. Ordinance No. 72: "An Ordinance of the Board of Directors of the Ojai Valley Sanitary District Setting Board Member Compensation"; (Adopted Jun 17, 2013, Effective July 1, 2013). (Repealed by Ord. 73 adopted April 28, 2014, Effective May 7, 2014)
5. Ordinance No. 73: "An Ordinance of the Board of Directors of the Ojai Valley Sanitary District Setting Board Member Compensation", (Adopted April 28, 2014, Effective May 7, 2014)
6. Ordinance No. 74: An Ordinance of the Board of Directors of the Ojai Valley Sanitary District Setting Board Member Compensation", (Adopted April 27, 2015, Effective May 7, 2015)
7. Ordinance No. 82: An Ordinance of the Board of Directors of the Ojai Valley Sanitary District to Accommodate and Comply with Changes to the State Law Regarding Accessory Dwelling Units, (Adopted XXXXXX, Effective XXXXX)

Commented [AMY4]: Adding ordinance to appendix



**Chapter 3**  
**Fees, Rates, Charges and Other Financial Matters**

**SECTION 300. Purpose**

This Chapter promulgates regulations governing fees, rates and charges imposed and collected by the District as authorized by the Sanitary District Act of 1923, Article 1 of Chapter 4 of Part 1 of Division 6 of the Health and Safety Code, Section 6400 et seq., Article 4 of Chapter 6 of Part 3 of Division 5 of the Health and Safety Code, Section 5470 et seq. and other applicable provisions of law. This Chapter also makes provision for other related financial matters affecting the District and its constituents.

**SECTION 301. Capacity Charges**

**301.1 Background Considerations**

The District Board relies upon certain findings in imposing Capacity Charges including, without limitation, the following:

**301.1.1** The Capacity Charges imposed by the District do not exceed the estimated reasonable cost of providing the service for which the Capacity Charges are imposed.

**301.1.2** The Capacity Charges imposed by the District are neither an incident of property ownership nor a property-related service having a direct relationship to property ownership and, therefore, not subject to the requirements of California Constitution Article XIII(D).

**301.1.3** The Capacity Charges imposed by the District are not imposed as a condition of approval of a proposed development project as defined in Government Code §66001 and, therefore, not subject to the requirements for imposing development fees set forth in Government Code §66000 et seq.

**301.1.4** The Capacity Charges imposed by the District are non-discriminatory as applied to all users of the District's sewer system, and are established upon a rational basis.

**301.1.5** The Capacity Charges imposed by this Code shall be in addition to all other District fees and charges.

**301.2 Purpose of Capacity Charges**

The District imposes Capacity Charges on Parcel Owners to provide revenue for the operation of its wastewater system and facilities and to distribute, proportionately, the cost of, acquisition, construction, installation and replacement of the District's wastewater facilities and other capital assets to the Parcel Owners.

### 301.3 Types of Capacity Charges

The District may impose the following types of Capacity Charges: (1) Treatment Plant Capacity Charge; (2) Trunk Sewer Capacity Charge; and (3) Local Sewer Capacity Charge.

### 301.4 Application of Capacity Charges

The District imposes one-time, non-discriminatory Capacity Charges on Parcel Owners as a condition of the District permitting those Parcel Owners to establish a new sewer connection or to expand the use of an existing sewer connection. Accessory Dwelling Units defined in Government Code §65852.2, subdivision (e) are exempt from any requirement to install a new or separate sewer connection and are thus exempt from any related sewer connection or sewer service capacity charge pursuant to Government Code §65852.2, sub-paragraph (f)(1)(2)(A).

Commented [AMY5]: Replace reference to (f)(2)(A) with (f)(1)

Exempt ADUs. An ADU is exempt from the District's connection fees if the ADU is the type of ADU described in paragraphs (1) or (2) and meets all the requirements of (3) or as defined in 65852.2 (f)

1. The ADU is an "attached" ADU that is located within an existing residential dwelling that does not exceed 50 percent of the existing residential dwelling's square footage; or
2. The ADU is an ADU created by converting an existing accessory structure located on the property where the conversion does not require an expansion of the existing accessory structure of more than 150 square feet;
3. The ADU has exterior access and adequate setbacks sufficient for fire and safety.

#### Non-Exempt ADUs Subject to Proportional Capacity Charges.

4. An ADU is subject to the District's Capacity Charges if:  
It does not meet the exempt conditions in "Exempt ADU" above

If the ADU is subject to the District's connection fees, as provided in paragraph (301.4), then the District shall impose a connection fee on the ADU proportional to the ADU's burden on the District's wastewater system. The ADU connection fee is calculated by a proportional count of drainage fixture units as defined by in definitions 101.10 "Single Dwelling Unit (a), Accessory Dwelling Unit. The resulting proportional ratio of ADU fixture units divide by 25 Drainage Fixture Units shall be applied to the adopted Capacity Charges Listed in Appendix B.

Commented [AMY6]: All being added to this section

**301.5 Use of Capacity Charge Revenues**

The District may use Capacity Charge revenues to pay for the operation and maintenance of wastewater facilities in existence at the time the charge is imposed or to pay for new wastewater facilities to be constructed in the future, provided those facilities benefit the property being charged and the charges do not exceed the reasonable cost of the service provided.

The District may use revenues derived from Capacity Charges for the acquisition, construction and reconstruction of the District's wastewater collection, treatment and disposal facilities; to repay principal and interest on debt instruments; or to repay federal or state loans for the construction and reconstruction of said sewer facilities, together with costs of administration and provisions for necessary reserves.

**301.6 Payment of Capacity Charge Required**

Payment of applicable Capacity Charges is required, and no Parcel Owner may establish a new sewer connection or expand use of an existing sewer connection without first paying all applicable Capacity Charges in full. Notwithstanding the foregoing, the District may, in accordance with applicable provisions of this Code, enter into an agreement with a Parcel Owner for the deferred payment of required Capacity Charges. *(Ord. 69, 2012)*

**301.7 Time of Payment**

Parcel Owners seeking a New Sewer Connection or expanded use of an existing sewer connection must pay all applicable Capacity Charges (or make other financial arrangements for payment) prior to the District approving or issuing a "will-serve letter."

**301.8 Amount of Payment**

Capacity Charges shall be paid in accordance with the charges effective on the date that a "will-serve letter" is issued.

**301.9. Person Responsible**

A Parcel Owner or Customer seeking a new sewer service connection or expanded use of an existing sewer connection shall be the person solely responsible for payment of applicable Capacity Charges. It is the duty of each Parcel Owner or Customer to ascertain from the District the amount and due date of any Capacity Charge applicable to the property or parcel and pay the appropriate District charge or fees when due and payable. Each Parcel Owner or Customer shall be responsible for informing the District within sixty (60) days of any changes in circumstances that might result in a change in the amount of the applicable District charge or fee for sewer services. This requirement shall also apply to those Parcel Owners who either have or are planning to have an attached or standalone Accessory Dwelling Unit on their parcel or property as defined in Chapter 1, Section 101.10, Definitions.

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### **301.10 Effect of Capacity Charge Payment**

Upon a Parcel Owner's payment (or an agreement to pay) of required Capacity Charges, sewer system capacity is assigned to a Parcel ("Assigned Capacity"). Once assigned, the sewer system capacity becomes appurtenant to the Parcel, and is not transferable other than by conveyance to a new parcel owner through the sale or transfer of the subject Parcel.

If the District determines that the Assigned Capacity for a Parcel is less than the capacity required to serve that Parcel, the Parcel's current Owner shall be responsible for paying (or arranging to pay) additional Capacity Charges to increase Assigned Capacity to the required level. The failure of a Parcel Owner's predecessor-in-interest's to pay for sufficient capacity to serve a Parcel shall not relieve a current Parcel Owner of this responsibility.

The District may employ any remedy available in law or in equity to require a Parcel Owner to pay for (or agree to pay for) sufficient Assigned Capacity for a Parcel. Additionally, the District may, after notice and hearing, disconnect any Parcel from the District's Sewer System for which Assigned Capacity is insufficient. (*Ord. 69, 2012*)

### **301.11 Treatment Plant Capacity Charge**

The Treatment Plant Capacity Charge equals a Parcel's proportionate share of the total replacement cost of unused treatment plant capacity in existence at the time the charge is imposed and is, therefore, proportionate to the benefit received by that Parcel.

#### **301.11.1 Residential Use**

For residential uses, the Treatment Plant Capacity Charge is based on each Capacity Unit or each Single Dwelling Unit on a Parcel.

#### **301.11.2 Commercial, Industrial, Institutional or Miscellaneous Uses Under 25,000 Gallons Per Day (GPD)**

For commercial industrial, institutional or miscellaneous uses generating less than 25,000 gallons of wastewater flow per day, a Treatment Plant Capacity Charge shall be paid for each Capacity Unit associated with those uses or one Capacity Unit corresponding to every twenty-five (25) Fixture Units (or any portion thereof) attributed to a Parcel.

In determining number of Fixture Units, fixtures shall be defined according to the current International Association of Plumbing and Mechanical Officials uniform Plumbing Code, except no additional credit shall be given for low-flow fixtures.

#### **301.11.3 Recreational Vehicle Parks**

For Recreational Vehicle Parks, the number of Capacity Units to be assigned shall be calculated as follows: (i) One (1) Capacity Unit for every twenty-five (25) Fixture Units (or portions thereof) located on the Parcel and related to permanent facilities such as washrooms, laundry rooms,

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recreational halls and playgrounds, stores, and snack bars; (ii) One-half (0.5) Capacity Unit for each Recreational Vehicle Space which may not be leased, rented or occupied for a period exceeding thirty (30) consecutive days; and, (iii) one (1) Capacity Unit for each Recreational Vehicle Space which may be leased, rented or occupied for a period of thirty (30) consecutive days or more. (Ord. 69, 2012)

**301.11.4 Commercial, Industrial, Institutional or Miscellaneous Uses Equal to or Greater than 25,000 Gallons Per Day (GPD)**

For commercial, industrial, institutional or miscellaneous uses generating 25,000 gallons of wastewater flow per day or more, a Treatment Plant Capacity Charge shall be paid for each Capacity Unit. One Capacity Unit shall be assigned for each two hundred (200) GPD of projected wastewater flow.

**301.11.5. Mixed Use Structures**

The Treatment Plant Capacity Charge for a structure used for both residential and non-residential purposes ("Mixed Use Structure") shall be the sum of the applicable Treatment Plant Capacity Charges for each separate use. A Parcel Owner's failure to comply with any applicable building and zoning regulations shall not relieve that Parcel Owner from responsibility for the payment of Treatment Plant Capacity Charges based upon the residential and non-residential uses of the structure.

The General Manager may waive the Treatment Plant Capacity Charge for that portion of a Mixed Use Structure that is used for non-residential use if it is determined that all of the following conditions are satisfied: (1) The residential and non-residential portions of the structure are in the possession of and occupied by the same person or person(s); (2) the non-residential use of the structure is incidental and secondary to the structure's residential use, which shall include, without limitation, home offices, live-work quarters, hobby shops, and art or craft studio spaces; (3) the structure is primarily used for non-residential purposes by the same person or persons who use the structure for residential purposes; and, (4) members of the public do not regularly access the structure for any non-residential purpose.

The General Manager may exempt a Mixed-Use Structure from either Treatment Plant Capacity Charges for residential use or non-residential use based on a determination of the structure's "predominant use." In making that determination, the General Manager may require a Parcel Owner to submit a study conducted by a licensed engineer establishing the "predominant use" of the structure based on factors such as the source, flow and quality of the structure's wastewater discharge, land use classification, zoning, and any other information that may be relevant to establishing the structure's predominant use.

The final determination as to how a given Mixed Use Structure's Treatment Plant Capacity Charges should be calculated shall be made in the sole and absolute discretion of the General Manager based on all relevant information in the administrative record on this matter. (*Ord. 75, 2015*)

### **301.12 Trunk Sewer Capacity Charge**

The Trunk Sewer Capacity Charge is calculated by dividing the total replacement cost of the District's Trunk Sewer facilities in existence at the time the charge is imposed by the total Capacity Units accessing or benefitting from those trunk sewer facilities. Accordingly, the Trunk Sewer Capacity Charge equals each Parcel's proportionate share of the total replacement cost of the District's existing Trunk Sewer facilities and is, therefore, proportionate to the benefit received by that Parcel.

#### **301.12.1 Residential Use.**

For residential uses, the Trunk Sewer Capacity Charge is based upon each Capacity Unit or each Single Dwelling Unit on a Parcel which equals a Capacity Unit.

#### **301.12.2 Commercial, Industrial, Institutional or Miscellaneous Uses Under 25,000 Gallons Per Day (GPD)**

For commercial industrial, institutional or miscellaneous uses generating less than 25,000 gallons of wastewater flow per day, a Trunk Sewer Capacity Charge shall be paid for each Capacity Unit. One Capacity Unit shall be assigned for every twenty-five (25) Fixture Units (or any portion thereof) attributed to a Parcel.

In determining number of Fixture Units, fixtures shall be defined according to the current International Association of Plumbing and Mechanical Officials uniform Plumbing Code, except no additional credit shall be given for low-flow fixtures.

For Recreational Vehicle Parks only, the number of Capacity Units to be assigned shall be calculated as follows: (i) One (1) Capacity Unit for every twenty-five (25) Fixture Units (or portions thereof) located on the Parcel and related to permanent facilities such as washrooms, laundry rooms, recreational halls and playgrounds, stores, and snack bars; (ii) One-half (.5) Capacity Unit for each Recreational Vehicle Space which may not be leased or rented for a period exceeding thirty (30) consecutive days; and, (iii) one (1) Capacity Unit for each Recreational Vehicle Space which may be leased, rented or occupied for a period equal to or exceeding thirty (30) consecutive days. (*Ord. 69, 2012*)

#### **301.12.3 Commercial, Industrial, Institutional or Miscellaneous Uses Equal to or Greater than 25,000 Gallons Per Day (GPD)**

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For commercial, industrial, institutional or miscellaneous uses generating 25,000 gallons of wastewater flow per day or more, a Trunk Sewer Capacity Charge shall be paid for each Capacity Unit. One Capacity Unit shall be assigned for each two hundred (200) GPD of projected wastewater flow.

**301.12.4. Mixed Use Structures**

The Trunk Sewer Capacity Charge for a structure used for both residential and non-residential purposes ("Mixed Use Structure") shall be the sum of the applicable Trunk Sewer Capacity Charges for each separate use. A Parcel Owner's failure to comply with any applicable building and zoning regulations shall not relieve that Parcel Owner from responsibility for the payment of Trunk Sewer Capacity Charges based upon the residential and non-residential uses of the structure.

The General Manager is authorized to waive the Trunk Sewer Capacity Charge for that portion of a Mixed Use Structure that is used for non-residential use if it is determined that all of the following conditions are satisfied: (1) The residential and non-residential portions of the structure are in the possession of and occupied by the same person or person(s); (2) the non-residential use of the structure is incidental and secondary to the structure's residential use, which shall include, without limitation, home offices, live-work quarters, hobby shops, and art or craft studio spaces; (3) the structure is primarily used for non-residential purposes by the same person or persons who use the structure for residential purposes; and, (4) members of the public do not regularly access the structure for any non-residential purpose.

The General Manager is authorized to exempt a Mixed-Use Structure from either Trunk Sewer Capacity Charges for residential use or non-residential use based on a determination of the structure's "predominant use." In making that determination, the General Manager may require a Parcel Owner to submit a study conducted by a licensed engineer establishing the "predominant use" of the structure based on factors such as the source, flow and quality of the structure's wastewater discharge, land use classification, zoning, and any other information that may be relevant to establishing the structure's predominant use.

The final determination as to how a given Mixed Use Structure's Trunk Sewer Capacity Charges are calculated shall be made in the sole and absolute discretion of the General Manager using all relevant information in the administrative record on this matter. (*Ord. 75, 2015*)

**301.13 Local Sewer Capacity Charge**

The Local Sewer Capacity Charge is calculated by dividing the total replacement cost of the District's Local Sewer facilities in existence at the time the charge is imposed by the total capacity units accessing or benefitting from those local sewer facilities. Accordingly, the Local Sewer Capacity Charge equals a Parcel's proportionate share of the total replacement cost of the District's existing Local Sewer facilities and is,

therefore, proportionate to the benefit received by that Parcel. Payment of the Local Sewer Capacity Charge with construction of a local sewer line is covered in Section 301.17.

**301.13.1 Residential Use**

For residential uses, a Local Sewer Capacity Charge is based on each Capacity Unit or each Single Dwelling Unit on a Parcel which equals a Capacity Unit.

**301.13.2 Commercial, Industrial, Institutional or Miscellaneous Uses under 25,000 Gallons Per Day (GPD)**

For commercial industrial, institutional or miscellaneous uses generating less than 25,000 gallons of wastewater flow per day, a Local Sewer Capacity Charge shall be paid for each Capacity Unit. One Capacity Unit shall be assigned for every twenty-five (25) Fixture Units (or any portion thereof) attributed to a Parcel.

In determining number of Fixture Units, fixtures shall be defined according to the current International Association of Plumbing and Mechanical Official's Uniform Plumbing Code, except no additional credit shall be given for low-flow fixtures.

For Recreational Vehicle Parks only, the number of Capacity Units to be assigned shall be calculated as follows: (i) One (1) Capacity Unit for every twenty-five (25) Fixture Units (or portions thereof) located on the Parcel and related to permanent facilities such as washrooms, laundry rooms, recreational halls and playgrounds, stores, and snack bars; (ii) One-half (.5) Capacity Unit for each Recreational Vehicle Space which may not be leased, rented or occupied for a period exceeding thirty (30) consecutive days; and, (iii) one (1) Capacity Unit for each Recreational Vehicle Space which may be leased, rented or occupied for a period equal to or exceeding thirty (30) consecutive days. (*Ord. 69, 2012*)

**301.13.3 Commercial, Industrial, Institutional or Miscellaneous Uses Equal to or Greater than 25,000 Gallons Per Day (GPD)**

For commercial, industrial, institutional or miscellaneous uses generating 25,000 gallons of wastewater flow per day or more, A Local Sewer Capacity Charge shall be paid for each Capacity Unit. One Capacity Unit shall be assigned for each two hundred (200) GPD of projected wastewater flow.

**301.13.4. Mixed Use Structures**

The Local Sewer Capacity Charge for a structure used for both residential and non-residential purposes ("Mixed Use Structure") shall be the sum of the applicable Treatment Plant Capacity Charges for each separate use. A Parcel Owner's failure to comply with any applicable building and zoning regulations shall not relieve that Parcel Owner from



responsibility for the payment of Local Sewer Capacity Charges based upon the residential and non-residential uses of the structure.

The General Manager may waive the Local Sewer Capacity Charge for that portion of a Mixed Use Structure that is used for non-residential use if it is determined that all of the following conditions are satisfied: (1) The residential and non-residential portions of the structure are in the possession of and occupied by the same person or person(s); (2) the non-residential use of the structure is incidental and secondary to the structure's residential use, which include, without limitation, home offices, live-work quarters, hobby shops, and art or craft studio spaces; (3) the structure is primarily used for non-residential purposes by the same person or persons who use the structure for residential purposes; and, (4) members of the public do not regularly access the structure for any non-residential purpose.

The General Manager is authorized to exempt a Mixed Use Structure from either Local Sewer Capacity Charges for residential use or non-residential use based on a determination of the Mixed Use Structure's "predominant use." In making that "predominant use" determination, the General Manager may require a Parcel Owner to submit a study conducted by a licensed engineer establishing the "predominant use" of the structure based on factors such as the source, flow and quality of the structure's wastewater discharge, land use classification, zoning, and any other information that may be relevant to establishing the structure's predominant use.

The final determination as to how a given Mixed Use Structure's Local Sewer Capacity Charges should be calculated shall be made in the sole and absolute discretion of the General Manager based on all relevant information in the administrative record on this matter. (*Ord. 75, 2015*)

#### **301.14 Establishment of Capacity Charges**

The Treatment Plant Capacity Charge, Trunk Sewer Capacity Charge and Local Sewer Capacity Charge shall be in the amounts set forth in Appendix B of this Chapter. The Capacity Charges set forth in Appendix B of this Chapter are subject to amendment by Board action in accordance with applicable law.

#### **301.15 Adjustment of Capacity Charges**

Capacity Charges are subject to annual adjustments on each July 1 following the effective date of this Code. On or about May of each year, or more often if determined necessary, the District General Manager shall review the estimated cost and value of District capital improvements, the continued need for additional capital improvements, and the reasonable relationship between such need and any new service connections which may benefit from the improvements or facilities for which this fee is charged. The General Manager shall report his findings to the Board of Directors at a noticed public hearing and recommend any adjustments to the Capacity Charges set forth in this Code or other action

as may be needed. As appropriate, such adjustments shall be made by the Board of Directors by ordinance, based upon appropriate findings.

When determining any adjustment to Capacity Charges, the General Manager shall use as guidance the March-to-March percentage change in the Engineering News Record (ENR) Los Angeles Area Construction Cost Index. The General Manager may also take into account any other factors deemed appropriate for the given circumstances at the particular time of the adjustment.

#### **301.16 Right to Administrative Review**

Any Parcel Owner subject to Capacity Charges may, in accordance with the procedures set forth in Chapter 9, Section 917, request review of any decision by District staff related to imposition of those capacity charges. (*Ord. 75, 2015*)

#### **301.17 Local Sewer Construction Agreement**

A Parcel Owner who, pursuant to a duly executed agreement with the District, pays the full cost and expense of constructing a Local Sewer line to serve that Owner's Parcel, shall not be required to pay the applicable Local Sewer Capacity Charge. Upon that Parcel Owner's payment of the costs and expenses of constructing a Local Sewer line to serve that Owner's Parcel, that Parcel Owner shall be entitled to all rights and privileges associated with the payment of the applicable Local Sewer Capacity Charge.

#### **301.18 Capacity Charges Refund**

A current Parcel Owner may wish to permanently disconnect a Parcel [or Capacity Unit(s)] from the District's sewer system. In such cases, the District may, in its sole discretion, decide to refund corresponding Capacity Charges. The District's decision to refund, and the amount of that refund, shall be rendered on a case-by-case basis. If Capacity Charges are refunded, the amount refunded shall be equal to the Capacity Charges originally paid with respect to the subject Parcel.

#### **301.19 Alternative Capacity Charge Collection Procedure.**

Notwithstanding any other provision of this Code, and as an alternative to, and not in limitation of, any other lawful collection procedures, the District may, in accordance with Health and Safety Code Section 5474 *et seq.*, as that Section may be amended or superseded: (1) provide for the payment of any Connection Fees and Capacity Charges required by this Chapter in installments; (2) provide for the rate of interest on such installments; and (3) provide that the amount of the fees or charges and the interest thereon shall constitute a lien against the Parcel which is connected to the District's facilities. (*Ord. 67, 2011*)

#### **301.20 Deferred Payment of Capacity Charges**

At the sole and absolute discretion of the District Board, the District and a Parcel Owner may, in accordance with Health and Safety Code Section 5474 *et seq.*, this Section and Section 301.21, enter into a written "Agreement for Deferred Payment of Ojai Valley Sanitary District Capacity Charges" ("Agreement") that: (1) provides for the payment of

Connection Fees and Capacity Charges required by this Chapter in installments; (2) provides for the rate of interest on such installments; and (3) provides that the amount of the installments and the interest thereon shall constitute a lien against the Parcel which is connected to the District's.

Any Agreement shall: (1) require that the Parcel Owner make an initial annual installment payment directly to the District upon execution of the Agreement; (2) require that all subsequent annual installments be paid at the time and in the manner specified in Health and Safety Code Section 5474 *et seq.*; and (3) be recorded in the Official Records of the County of Ventura, California.

A Parcel Owner may not simultaneously be party to more than one Agreement.

Except as provided in Section 301.21, no Agreement shall defer payment of more than two (2) Capacity Units.

A Parcel Owner desiring to enter into an Agreement may be required to provide the District with personal and property related information. The information required shall be determined by the District General Manager on a case-by-case basis, and may include, without limitation, Parcel Owner credit history, preliminary title reports and development plans and specifications. All costs to provide said information shall be borne by the Parcel Owner.

Where the District Board elects to exercise its discretion to enter into an Agreement, the number of installments and rate of interest on such installments set forth in the Agreement shall be based on the Parcel Owner's choice of one of the following alternative payment schedules: (*Ord. 67, 2011*) (*Ord. 69, 2012*)(*Ord. 75, 2015*)

**301.20.1 Alternative Payment Schedule One**

Payment of all applicable Connection Fees and Capacity Charges in installments over a period of five (5) years at zero percent (0%) annual interest rate. (*Ord. 67, 2011*) (*Ord. 69, 2012*)

**301.20.2 Alternative Payment Schedule Two**

Payment of all applicable Connection Fees and Capacity Charges in installments over a period of ten (10) years at five percent (5%) annual interest rate. (*Ord. 67, 2011*) (*Ord. 69, 2012*)

**301.20.3 Alternative Payment Schedule Three**

Payment of all applicable Connection Fees and Capacity Charges in installments over a period of fifteen (15) years at seven percent (7%) annual interest rate. (*Ord. 67, 2011*) (*Ord. 69, 2012*)

**301.21 Deferred Payment of More Than Two Capacity Units**

Notwithstanding any other provision of this Code, the District shall not enter into any "Agreement for Deferred Payment of Ojai Valley Sanitary District Capacity Charges" ("Agreement") which defers payment of more than ten (10) Capacity Units.

A Parcel Owner who is not party to another Agreement may, in accordance with this Section submit a written request to enter into an Agreement which defers payment of more than two (2) but less than or equal to ten (10) Capacity Units.

The written request shall be in a form approved by the District General Manager. The information required for a written request shall be determined by the District General Manager on a case-by-case basis. Required information may include, without limitation, Parcel Owner credit history, preliminary title reports and development plans and specifications. All costs to provide information shall be borne by the Parcel Owner.

Based upon the information provided, the General Manager shall prepare a staff report and recommendation for Board consideration. The Board may, in its sole and absolute discretion, approve or deny the Parcel Owner's request for deferred payment. The decision of the Board to approve or deny the request shall be final.

If approved, the District and a Parcel Owner may, in accordance with Health and Safety Code Section 5474 et seq., enter into a written Agreement that (1) provides for the payment of Connection Fees and Capacity Charges required by this Chapter in installments, (2) provides for the rate of interest on such installments, and (3) provides that the amount of the installments and the interest thereon shall constitute a lien against the Parcel to which the District's facilities are connected.

The Agreement shall provide that, following a specified initial payment, the Parcel Owner shall pay the remaining balance due in equal annual installments at the time and in the manner specified in Health and Safety Code Section 5474 et seq. The number of installments and rate of interest on such installments set forth in the Agreement shall be based on the Parcel Owner's choice of one of the alternative payment schedules set forth in Sections 301.20.1, 301.20.2 or 301.20.3.

Any Agreement which defers payment of more than two (2) but less than or equal to ten (10) Capacity Units shall require that the Parcel Owner's initial installment payment be made directly to the District in an amount equal to twenty-five percent (25%) of the total Capacity Charges subject to the Agreement, regardless of the Parcel Owner's choice of payment schedules. Following payment of the initial installment, the remaining balance shall be amortized in equal installments over the applicable term. (*Ord. 69, 2012*)

**SECTION 302 Sewer Service Charges & Fees for Sewer System-Related Services**

**302.1 Background Considerations**

The District Board relies upon certain findings in imposing Sewer Service Charges and fees for sewer system-related services including, without limitation, the following:

**302.1.1** The Sewer Service Charges and fees for sewer system-related services imposed by the District do not exceed the cost of providing sewer services for which the charges are imposed.

**302.1.2** Revenues derived from the Sewer Service Charges and fees for sewer system-related services imposed by the District are not used by the District for any purposes other than the provision of the District's sewer services.

**302.1.3** The Sewer Service Charges and fees for sewer system-related services imposed by the District are for sewer services and sewer system-related services actually used by or immediately available to Parcel Owners.

**302.1.4** The Sewer Service Charges and fees for sewer system-related services imposed by the District are not imposed as a condition of approval of a development project, as defined in California Government Code Section 66001 and have been approved by the District Board of Directors in accordance with applicable provisions of law, including California Constitution Article XIID.

**302.1.5** The Sewer Service Charges and fees for sewer system-related services imposed by the District are non-discriminatory as applied to all users of the District's sewer system, and are established upon a rational basis.

**302.2 Purpose and Use of Sewer Service Charges & Sewer System-Related Service Fees**

The purpose of Sewer Service Charges and Sewer System-Related Service Fees is to raise revenue for a variety of lawful purposes including, without limitation: construction, reconstruction, maintenance and operation of sewage collection, wastewater treatment and disposal facilities; repayments of principal and interest on debt instruments; repayment of federal and state loans issued for the construction and reconstruction of District facilities; recovery of costs associated with administration; provision of necessary reserves; and recovery of costs associated with all regulatory administration and laboratory services related to the industrial dischargers, source control permittees, and other users of the District's systems. The only purpose for which revenues derived from District Sewer Service Charges and Sewer System-Related Service Fees may not be used is the acquisition or construction of additional Local Sewers which are an augmentation to an existing sewer system.

### **302.3 Application**

This Code imposes Sewer Service Charges and fees for sewer system-related services upon Parcel Owners as a condition of the District providing sewer service.

### **302.4 Collection**

#### **302.4.1 Collection of Sewer Service Charges**

Sewer Service Charges set forth in this Code may be collected in accordance with the procedures set forth in Chapter 3, Section 303. (*Ord. 75, 2015*)

#### **302.4.2 Collection of Fees for Sewer System-Related Services**

Fees for Sewer System-Related Services established as required by this Code may be collected in accordance with the procedures set forth in Chapter 3, Section 303. (*Ord. 75, 2015*)

### **302.5 Person Responsible**

All Sewer Service Charges and fees for sewer system-related services shall be the responsibility of the Owner of the Parcel served or Customer. It shall be the responsibility of the Parcel Owner to notify the District within 60 days of any changes in the billing address, change in the type of discharge, building improvements affecting the use of the Parcel or adding extra dwelling units to the property or any other change in circumstances that might result in a change in the amount of an applicable charge or fee. It is the duty of each Owner to ascertain from the District the amount and due date of any applicable Sewer Service Charge or fee for sewer system-related services related to the Parcel and pay the charge and/or fee when due and payable.

### **302.6 Computation of Debt Service Surcharge**

The Debt Service Surcharge, which is a component of Sewer Service Charges or Fees for Sewer System-Related Services (see Appendix C), may be computed using formulas set forth in the District's current adopted budget. The Debt Service Surcharge for a given Parcel depends upon the land use on the Parcel:

#### **302.6.1 Residential Use**

The Debt Service Surcharge for residential Parcels is calculated by multiplying the total Capacity Units associated with the Parcel by the applicable Debt Service Surcharge.

#### **302.6.2 Commercial, Industrial, Institutional or Miscellaneous Uses Under 25,000 GPD**

The Debt Service Surcharge for non-residential Parcels generating less than twenty-five thousand (25,000) gallons per day (GPD) of wastewater flow is calculated by multiplying the total Capacity Units for the Parcel by the applicable Debt Service Surcharge. For purposes of

calculating Debt Service Surcharge, the total Capacity Units for a Parcel shall be based on the current number of Capacity Units attributed to the Parcel.

**302.6.3 Commercial, Industrial, Institutional or Miscellaneous Uses Equal to or Greater than 25,000 GPD**

The Debt Service Surcharge for non-residential Parcels generating twenty-five thousand (25,000) GPD or more of wastewater flow is calculated by multiplying the total Capacity Units for the Parcel by the applicable Debt Service Surcharge. For purposes of calculating Debt Service Surcharge, the total Capacity Units for a Parcel shall be based on the current number of Capacity Units attributed to the Parcel.

**302.6.4 Mixed Use Structures**

The Debt Service Surcharge for a structure used for both residential and non-residential purposes ("Mixed Use Structure") shall be the sum of the applicable Debt Service Surcharge for each separate use. A Parcel Owner's failure to comply with applicable building and zoning regulations shall not relieve that Parcel Owner from responsibility for the payment of Debt Service Surcharges based upon the residential and non-residential uses of the structure.

The General Manager is authorized to waive the Debt Service Surcharge for that portion of a Mixed Use Structure that is used for non-residential use upon a determination that all of the following conditions are satisfied: (1) The residential and non-residential portions of the structure are in the possession of and occupied by the same person or person(s); (2) the non-residential use of the structure is incidental and secondary to the structure's residential use. *[Examples of non-residential uses that may be incidental and secondary to a structure's residential use include, without limitation, home offices, live-work quarters, hobby shops, and art or craft studio spaces.];* (3) the structure is primarily used for non-residential purposes by the same person or persons who use the structure for residential purposes; and, (4) members of the public do not regularly access the structure for any non-residential purpose.

The General Manager is authorized to exempt a Mixed Use Structure from either Debt Service Surcharges for residential use or non-residential use based on a determination of the structure's "predominant use." In making that determination, the General Manager may require a Parcel Owner to submit a study conducted by a licensed engineer establishing the "predominant use" of the structure based on factors such as the source, flow and quality of the structure's wastewater discharge, land use classification, zoning, and any other information that may be relevant to establishing the structure's predominant use.

The final determination as to how a given Mixed Use Structure's Debt Service Surcharge should be calculated shall be made in the sole and

absolute discretion of the General Manager based on all relevant information. (Ord. 75, 2015)

**302.7 Computation of Sewer Service Charges**

Residential and non-residential Sewer Service Charges shall be computed in accordance with this section.

**302.7.1 Residential Use**

The Sewer Service Charge for residential Parcels is calculated by multiplying the Basic Sewer Charge (see Appendix C) by the Parcel's total Service Units and then adding the Parcel's Debt Service Surcharge. The total Service Units for a given residential Parcel equals the number of Single Dwelling Units located on that Parcel multiplied by the factor set forth in the following table: (Ord. 69, 2012)

Group No.	Category	Factor	Description
I	Residential	1.0	<ul style="list-style-type: none"> <li>• Single Dwelling Unit</li> <li>• Multi-Family Manufactured or Mobile Home</li> <li>• Manufactured Home</li> <li>• Mobile Home</li> <li>• Accessory Dwelling Unit</li> </ul>

\*See Chapter 1 of this Code for definitions.

**302.7.1.1 Adjustments**

**302.7.1.1.1** Where a Parcel Owner has paid required Capacity Charges, but has not yet constructed any portion of a private lateral to the Parcel that would complete the connection of the Parcel to the District Sewer System, the Parcel Owner shall be required to pay Sewer Service Charges calculated as follows: Seventy-five percent (75%) of the Basic Sewer Service Charge plus one hundred percent (100%) of the Debt Service Surcharge set forth in this Code. In this case only, the Basic Sewer Service Charge shall be based on the unused Capacity Unit attributable to the Parcel instead of the Service Unit attributable to the Parcel.

**302.7.1.1.2** When a Parcel Owner has paid the required Capacity Charges and any portion of a private lateral to the Parcel is constructed, the Parcel Owner shall pay Sewer Service Charges calculated as follows: (1) For each Single Dwelling Unit actually constructed on the Parcel, the Parcel Owner shall pay full Sewer Service Charges; (2) For any unused Capacity Units attributable to the Parcel, the Parcel Owner shall pay seventy-five percent (75%) of the Basic Sewer Service

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Charge, which shall be based on the unused Capacity Unit instead of on the Service Unit, plus one hundred percent (100%) of the Debt Service Surcharge set forth in this Code.

**302.7.2 Commercial, Industrial or Miscellaneous Uses Under 25,000 GPD**

The Sewer Service Charge for non-residential Parcels generating less than twenty-five thousand (25,000) GPD is calculated by multiplying the Basic Sewer Service Charge by the Parcel's total Service Units and then adding the Parcel's Debt Service Surcharge. The total Service Units for a given Parcel equals the number of groups of twenty-five (25) Fixture Units (or any portion thereof) located on the Parcel multiplied by the applicable factor set forth in the following table.

In determining number of Fixture Units, fixtures shall be defined according to the current International Association of Plumbing and Mechanical Officials Uniform Plumbing Code, except no additional credit shall be given for low-flow fixtures.

Group No.	Category	Factor	Description
II	Low Strength Commercial	1.0	<ul style="list-style-type: none"> <li>• Barber/Beauty Shops</li> <li>• Business/Professional Office</li> <li>• Car Washes</li> <li>• Hospital/Convalescent Homes</li> <li>• Laundromats</li> <li>• Retail &amp; Department Stores</li> <li>• Service &amp; Repair Shops</li> </ul>
III	Medium Strength Commercial	1.1	<ul style="list-style-type: none"> <li>• Auto Service &amp; Repair</li> <li>• Bars/Taverns without Dining</li> <li>• Dry Cleaners/Laundries</li> <li>• Hotel/Motel without Restaurant</li> <li>• Machine/Welding Shops</li> <li>• Veterinarian/Pet Shops, Kennels</li> </ul>
IV	High Strength Commercial	1.9	<ul style="list-style-type: none"> <li>• Bakeries</li> <li>• Hotel/Motels with Restaurants</li> <li>• Markets</li> <li>• Mortuaries (Funeral Homes)</li> <li>• Restaurants</li> </ul>

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<b>V</b>	<b>Institutional</b>	<b>1.0</b>	<ul style="list-style-type: none"> <li>• <b>Churches (Religious Orgs.)</b></li> <li>• <b>Membership Orgs.</b></li> <li>• <b>Multi-Use Camps and Orgs.</b></li> <li>• <b>Schools (including churches with preschool)</b></li> <li>• <b>Social Services/Parks</b></li> <li>• <b>Theaters</b></li> <li>• <b>Recreational Vehicle Parks</b></li> </ul>
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\* See Appendix A of this Chapter for the North American Industry Classification System (NAICS) definitions.

**302.7.2.1 Adjustments**

**302.7.2.1.1** Where a Parcel Owner has paid required Capacity Charges, but has not yet constructed any portion of a private lateral to the Parcel, the Parcel Owner shall be required to pay Sewer Service Charges calculated as follows: Seventy-five percent (75%) of the Basic Sewer Service Charge plus one hundred percent (100%) of the Debt Service Surcharge set forth in this Code, with the Basic Sewer Service Charge being imposed per unused Capacity Unit attributable to the Parcel and not per Service Unit.

**302.7.2.1.2** Where a Parcel Owner has paid required Capacity Charges and any portion of a private lateral to the Parcel is constructed, the Parcel Owner shall pay sewer service charges calculated as follows: The Parcel Owner shall pay the full Sewer Service Charge for each group of twenty-five (25) fixture units (or any portion thereof) actually installed on the Parcel. For any unused Capacity Units attributable to the Parcel, the Parcel Owner shall pay seventy-five percent (75%) of the Basic Sewer Service Charge plus one hundred percent (100%) of the Debt Service Surcharge set forth in this Code, with the Basic Sewer Service Charge being imposed per unused Capacity Unit and not per Service Unit.

**302.7.3 Commercial, Industrial, Institutional or Miscellaneous Uses  
Generating 25,000 GPD or More**

The Sewer Service Charge for non-residential Parcels generating twenty-five thousand (25,000) GPD or more, is the sum of the Basic Sewer Service Charge multiplied by the Parcel's total Service Units and the Parcel's Debt Service Surcharge. The total Service Units for a given Parcel equals the product of the measured wastewater flow generated by that Parcel and the measured strength of that flow. Total Service Units shall be calculated using the following equation, expressed to the tenth of a unit.

Service Units = $\frac{\text{Measured GPD}^*}{200 \text{ GPD}} \times [0.454 + \frac{(\text{Measured BOD}^{**} \times 0.285)}{0.261}] + \frac{(\text{Measured SS}^{***} \times 0.261)}{200 \text{ mg/l}}$			
200 GPD		170 mg/l	200 mg/l

\*GPD = Gallons per Day  
\*\* BOD = Biochemical Oxygen Demand  
\*\*\* SS = Suspended Solids

**302.7.3.1 Adjustments**

**302.7.3.1.1** Where a Parcel Owner has paid required Capacity Charges, but has not yet constructed any portion of a private lateral to the Parcel, the Parcel Owner shall be required to pay Sewer Service Charges calculated as follows: Seventy-five percent (75%) of the Basic Sewer Service Charge and one hundred percent (100%) of the Debt Service Surcharge set forth in this Code, with the Basic Sewer Service Charge being imposed per unused Capacity Unit and not per Service Unit.

**302.7.3.1.2** Where a Parcel Owner has paid required Capacity Charges and any portion of a private lateral to the Parcel is constructed, the Parcel Owner shall pay Sewer Service Charges calculated as follows: The Parcel Owner shall pay the full Sewer Service Charges for any measured wastewater flow. For any unused Capacity Units attributable to the Parcel, the Parcel Owner shall pay seventy-five percent (75%) of the Basic Sewer Service Charge and one hundred percent (100%) of the Debt Service Surcharge set forth in this Code, with the Basic Sewer Service Charge being imposed per unused Capacity Unit and not per Service Unit.

**302.7.4 Mixed Use Structures**

The Sewer Service Charges for a structure used for both residential and non-residential purposes ("Mixed Use Structure") shall be the sum of the applicable Sewer Service Charges for each separate use. A Parcel Owner's failure to comply with applicable building and zoning regulations shall not relieve that Parcel Owner from responsibility for the payment of Sewer Service Charges based upon the residential and non-residential uses of the structure.

The General Manager is authorized to waive the Sewer Service Charge for that portion of a Mixed Use Structure that is used for non-residential use upon a determination that all of the following conditions are satisfied: (1) The residential and non-residential portions of the structure are in the possession of and occupied by the same person or person(s); (2) the non-residential use of the structure is incidental and secondary to the structure's residential use. [*Examples of non-residential uses that may be incidental and secondary to a structure's residential use include, without limitation, home offices, live-work quarters, hobby shops, and art or craft studio spaces.*]; (3) the structure is primarily used for non-residential purposes by the same person or persons who use the structure for residential purposes; and, (4) members of the public do not regularly access the structure for any non-residential purpose.

The General Manager is authorized to exempt a Mixed Use Structure from either the Sewer Service Charge for residential use or non-residential use based on a determination of the structure's "predominant use." In making that determination, the General Manager may require a Parcel Owner to submit a study conducted by a licensed engineer establishing the "predominant use" of the structure based on factors such as the source, flow and quality of the structure's wastewater discharge, land use classification, zoning, and any other information that may be relevant to establishing the structure's predominant use.

The final determination as to how a given Mixed Use Structure's Sewer Service Charges should be calculated shall be made in the sole and absolute discretion of the General Manager based on all relevant information. (*Ord. 75, 2015*)

**302.8 Establishment of Charges and Fees**

Upon a Parcel Owner's payment of Capacity Charges, as required by this Code, sewer service is hereby deemed to be immediately available to the subject Parcel. Charges for sewer service and other fees for sewer system-related services shall be paid in accordance with the charges and fees effective on the date imposed.

**302.8.1 Basic Sewer Service Charge**

The District's Basic Sewer Service Charges is hereby imposed on Owners of Parcels served by the District (or for whom sewer service is immediately available as defined in Section 302.8) and Owners of Parcels which, in any way, discharge sewage into the District's sewer system. The District's Basic Sewer Service Charges shall be in the amounts set forth in Appendix C of this Chapter. On each July 1 following the effective date of

this Code, the Basic Sewer Service Charges set forth in Appendix C of this Chapter may be amended by the Board in accordance with applicable law.

### **302.8.2 Debt Service Surcharge**

The District's Debt Service Surcharge is hereby imposed on Owners of Parcels served by the District (or for whom sewer service is immediately available as defined in 302.8) and Owners of Parcels which, in any way, discharge sewage into the District's systems. The District's Debt Service Surcharge shall be in the amounts set forth in Appendix C of this Chapter. On each July 1 following the effective date of this Code, the Debt Service Surcharges set forth in Appendix C of this Chapter may be amended by the Board in accordance with applicable law.

### **302.8.3 Sewer System-Related Service Fees**

Fees for sewer system-related services may be imposed by the District. Fees for Sewer System-Related Services shall be collected by and paid to the District in the manner authorized by applicable provisions of this Code, the California Government Code, the California Health and Safety Code or other applicable law. The District's fees for sewer system-related services are set forth in Appendix D of this Chapter. On each July 1 following the effective date of this Code, the District's fees for sewer system-related services as set forth in Appendix D of this Chapter may be amended by the Board in accordance with applicable law.

#### **302.8.3.1 Types of Sewer System-Related Service Fees.**

The types of sewer service fees which may be established by the District include, without limitation, the following: *(Ord. 71, 2013)*

**302.8.3.1.1** Issuance of Permit, Sewer Availability Letter, Currently Being Served Letter and/or Will Serve Letter

**302.8.3.1.2** Plan Check Fee of Private Portion of Single Capacity Unit Sewer Plan or Change in Use Review & Site Visit

**302.8.3.1.3** Plan Check Fee for Public Sewer Improvements or Construction of Public Sewers in a Publicly Dedicated Street or in a Sewer Easement or Right-of-Way.

**302.8.3.1.4** Inspection Fee – Repair of Private Portion of Single & Multiple Residential, Commercial, Institutional, Industrial or Miscellaneous Sewer Facilities

**302.8.3.1.5** Inspection Fee – Private Portion of Single & Multiple Residential, Commercial, Institutional, Industrial or Miscellaneous Sewer Construction or Change-in-Use

**302.8.3.1.6** Inspection Fee – Public Sewer Improvement Construction; Public Sewer Improvements Constructed in a

Publicly Dedicated Street or in a Sewer Easement or Right-of-Way and Required to be Dedicated to the District as a Condition of Approval by the Governing Body of a Final Tract or Parcel Map.

**302.8.3.1.7** Annexation Fee.

**302.8.3.1.8** Returned Check Fee.

**302.8.3.1.9** Excess Flow Fee.

**302.8.3.1.10** Recording/Lien Processing Fee

**302.8.3.1.11** Annexation Mapping Deposit.

**302.8.3.1.12** Sewer Atlas Update Fee.

**302.8.3.1.13** Industrial & Commercial Pretreatment Permit & Site Inspection Fee.

**302.8.3.1.14** Special Use Permit Application Fee [see Chapter 6, Section 609] (*Ord. 71, 2013*) (*Ord. 75, 2015*)

**302.8.4 Reimbursement for District Services**

A Parcel Owner or other party shall reimburse the District for all District costs related to services rendered by the District at the Parcel Owner's or other party's request. The District may collect any unreimbursed costs in the manner authorized by applicable provisions of this Code, the California Government Code, the California Health and Safety Code or other applicable law. The following District services may be requested by a Parcel Owner or other party subject to reimbursement:

**302.8.4.1 District Performed Line Cleaning of Private Collection Lines**

The District shall be reimbursed for all private collection lines cleaned by the District. The reimbursement shall include all District costs for such cleaning, including, without limitation, manpower and equipment costs.

**302.8.4.2 District Performed Repair of Private Connections or Laterals to District Sewage Collection Lines**

The District shall be reimbursed for all costs associated with the repair of private connections to District collection lines and/or other corrective work necessary to abate or correct any violations of the District code.

**302.8.4.3 Sewer Construction Repair after Regular District Working Hours**

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The District shall be reimbursed for all costs associated with sewer construction repair after regular District working hours.

### APPENDIX A

#### NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) DEFINITION

Group II – Low Strength Commercial = 1.00	
Type of Business	North American Industry Classification System (NAICS) Definition
Barber/Beauty Shops	Establishments primarily engaged in cutting, trimming, and styling men's and boys' hair; and/or shaving and trimming men's beards or establishments engaged in one or more of the following: (1) cutting, trimming, shampooing, coloring, waving, or styling hair; (2) providing facials; and (3) applying makeup (except permanent makeup). (NAICS Code 812111 & 812112).
Business/Professional Offices	Establishments primarily engaged in providing a range of day-to-day office administrative services, such as financial planning; billing and recordkeeping; personnel; and physical distribution and logistics for others on a contract or fee basis (NAICS Code 561110).
Car Washes	Establishments primarily engaged in cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, and vans, and trailers (NAICS Code 811192).
Hospital/Convalescent Homes	Hospital - establishments known and licensed as general medical and surgical hospitals primarily engaged in providing diagnostic and medical treatment (both surgical and nonsurgical) to inpatients with any of a wide variety of medical conditions (NAICS Code 622110). Convalescent Home - establishments primarily engaged in providing inpatient nursing and rehabilitative services. (NAICS Code 623110).
Laundromats	Establishments primarily engaged in (1) operating facilities with coin-operated or similar self-service laundry and dry cleaning equipment for customer use on the premises and/or (2) supplying and servicing coin-operated or similar self-service laundry and dry cleaning equipment for customer use in places of business operated by others, such as apartments and dormitories (NAICS Code 812310).

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Retail & Department Stores	Retail Stores – establishments primarily engaging in retail sales (NAICS Code 311330, 423440, 423210, 441310, 442110, 442291, 442299, 443111, 443112, 443120, 443130, 444120, 444130, and 444190) /Dept. Stores - establishments known as department stores that have separate departments for various merchandise lines, such as apparel, jewelry, home furnishings, and linens, each with separate cash registers and sales associates (NAICS Code 452111).
Service & Repair Shops	Establishments primarily engaged in the repair of goods without retailing new items (NAICS Code 811112, 811113, 811118, 811211, 811411, 811420, 811430, and 811490).

<b>Group III – Medium Strength Commercial = 1.10</b>	
<b>Type of Business</b>	<b>North American Industry Classification System (NAICS) Definition</b>
Auto Service & Repair	Establishments primarily engaged in providing (1) a wide range of mechanical and electrical repair and maintenance services for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers or (2) engine repair and replacement (NAICS Code 811111).
Bars/Taverns w/o Dining	Establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services (NAICS Code 722410).
Dry Cleaners/Laundries	Establishments primarily engaged in one or more of the following: (1) providing dry cleaning services (except coin-operated); (2) providing laundering services (except linen and uniform supply or coin-operated); (3) providing drop-off and pickup sites for laundries and/or drycleaners; and (4) providing specialty cleaning services for specific types of garments and other textile items (except carpets and upholstery), such as fur, leather, or suede garments; wedding gowns; hats; draperies; and pillows. These establishments may provide all, a combination of, or none of the cleaning services on the premises (NAICS Code 812320).
Hotel/Motel w/o Restaurant	Establishments primarily engaged in providing short-term lodging without a restaurant (NAICS Code 72119).
Machine/Welding Shops	Establishments known as machine shops primarily engaged in machining metal and plastic parts and parts of other

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	composite materials on a job or order basis. Generally machine shop jobs are low volume using machine tools, such as lathes (including computer numerically controlled); automatic screw machines; and machines for boring, grinding, and milling (NAICS Code 332710).
Veterinarian/Pet Shops, Kennels	Veterinarian - establishments of licensed veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals; and establishments primarily engaged in providing testing services for licensed veterinary practitioners (NAICS Code 541940). Pet shops - establishments primarily engaged in retailing pets, pet foods, and pet supplies (NAICS Code 453910). Kennel - establishments primarily engaged in providing pet care services (except veterinary), such as boarding, grooming, sitting, and training pets (NAICS Code 812910).

<b>Group IV – High Strength Commercial = 1.90</b>	
<b>Type of Business</b>	<b>North American Industry Classification System (NAICS) Definition</b>
Bakeries	Establishments primarily engaged in manufacturing fresh and frozen bread and bread-type rolls and other fresh bakery products (NAICS Code 311812 & 311821).
Hotel/Motels w/Restaurants	Establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms and convention services, laundry services, parking, and other services (NAICS Code 721110).
Markets	Establishments generally known as supermarkets and grocery stores primarily engaged in retailing a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry. Included in this industry are delicatessen-type establishments primarily engaged in retailing a general line of food (NAICS Code 445110).
Mortuaries – (Funeral Homes)	Establishments primarily engaged in preparing the dead for burial or interment and conducting funerals (i.e., providing facilities for wakes, arranging transportation for the dead, selling caskets and related merchandise). Funeral homes combined with crematories are included in this industry (NAICS Code 812210).

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Restaurants	Establishments primarily engaged in providing food services to patrons who order and are served while seated (i.e., waiter/waitress services) and pay after eating and establishments primarily engaged in providing food services (except snack and nonalcoholic beverage bars) where patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer's location. Some establishments in this industry may provide these food services in combination with selling alcoholic beverages (NAICS Code 722211 & 722110).
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Group V – Institutional = 1.00	
Type of Business	North American Industry Classification System (NAICS) Definition
Churches (Religious Organizations)	(1) Establishments primarily engaged in operating religious organizations, such as churches, religious temples, and monasteries and/or (2) establishments primarily engaged in administering an organized religion or promoting religious activities (NAICS Code 813110).
Membership Organizations	Establishments primarily engaged in promoting the civic and social interests of their members (NAICS Code 813410).
Multi-Use Camps/Organizations	Establishments (except amusement parks and arcades; gambling industries; golf courses and country clubs; skiing facilities; marinas; fitness and recreational sports centers; and bowling centers) primarily engaged in providing recreational and amusement services (NAICS Code 713990).
Schools (including churches w/preschool)	Establishments primarily engaged in furnishing academic courses and associated course work that comprise a basic preparatory education. This includes colleges and churches with preschools (NAICS Code 611110).
Social Services/Parks	Establishments primarily engaged in providing nonresidential individual and family social assistance services (NAICS Code 624190)/ establishments primarily engaged in the preservation and exhibition of natural areas or settings (NAICS Code 712190).
Theatres	Establishments primarily engaged in operating motion picture theaters (except drive-ins) and/or exhibiting motion pictures or videos at film festivals, and so forth (NAICS Code 512131) and (1) companies, groups, or theaters

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	primarily engaged in producing the following live theatrical presentations: musicals; operas; plays; and comedy, improvisational, mime, and puppet shows (NAICS Code 711110).
RV (Recreational Vehicle) Parks and Campgrounds	Establishments primarily engaged in operating sites to accommodate campers and their equipment, including tents, tent trailers, travel trailers, and RVs (recreational vehicles). These establishments may provide access to facilities, such as washrooms, laundry rooms, recreational halls and playgrounds, stores, and snack bars (NAICS Code 721211). <i>(Ord. 69, 2012)</i>

**APPENDIX B**  
**Effective as of July 1, 2012**  
*(Ord. 70, 2012)*

**CAPACITY CHARGES**

Treatment Plant Capacity Charge	\$5,140.21/Capacity Unit
Trunk Sewer Capacity Charge	\$2,966.44/Capacity Unit
Local Sewer Capacity Charge	\$7,917.17/Capacity Unit

**APPENDIX C**  
**Effective as of July 1, 2015**  
*(Ord. 71, 2013)(Ord. 77, 2015)*

**SEWER SERVICE CHARGES\***

	<b>Fiscal Year 2015-2016</b>	<b>Fiscal Year 2016-2017</b>
<b>Basic Sewer Service Charge</b>	<b>\$53.47 per Service Unit per month</b>	<b>\$54.54 per Service Unit per month</b>
<b>Debt Service Sewer Charge for Parcels Located Within the City of Ojai</b>	<b>\$3.37 per Capacity Unit per month</b>	<b>\$3.37 per Capacity Unit per month</b>
<b>Debt Service Sewer Charge for Parcels Located Outside the City of Ojai</b>	<b>\$1.89 per Capacity Unit per month</b>	<b>\$1.89 per Capacity Unit per month</b>

\* The methodology for calculating the total monthly sewer service charge that may be imposed on a given property is set forth in detail in Chapter 3, Section 302.7 of the Ojai Valley Sanitary District Code of Regulation.

**APPENDIX D**  
**Effective as of May 27, 2015**  
*(Ord. 71, 2013)(Ord. 75, 2015)*

**FEES FOR SEWER SYSTEM-RELATED SERVICES**

1	Issuance of Permit, Sewer Availability Letter and/or Will Serve Letter	\$75.00
2	Plan Check Fee –Private Portion of Single Capacity Unit Sewer Plan or Change in Use Review & Site Visit	\$200.00 per plan check****
3	Plan Check Fee - Public Sewer Improvements or Construction of Public Sewers in a Publicly Dedicated Street or in a Sewer Easement or Right-Of-Way	2.0% of the Project Engineer's estimate of the cost of the public sewer improvements to be constructed.; minimum of \$300.00
4	Inspection Fee – Repair of Private Portion of Single & Multiple Residential, Commercial, Institutional, Industrial or Miscellaneous Sewer Facilities	\$75 per Service Lateral
5	Inspection Fee – Private Portion of Single & Multiple Residential, Commercial, Institutional, Industrial or Miscellaneous Sewer Construction	\$200.00 per Project with 1-10 Capacity Units; plus \$100 for each increment of 10 Capacity Units above the first 10 ****
6	Inspection Fee – Public Sewer Improvement Construction; Public Sewer Improvements Constructed in a Publicly Dedicated Street or in a Sewer Easement or Right-of-Way and Required to be Dedicated to the District as a Condition of Approval by the Governing Body of a Final Tract or Parcel Map.	Four and one-half percent (4.5%) of the Project Engineer's estimate of the cost of public sewer improvements to be constructed
7	Annexation Fee	\$300.00 per Parcel
8	Returned Check Fee	\$50.00 per check

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9	Excess Flow Fee	200% of the standard monthly service charge on those flows exceeding reserved capacity *
10	Recording/Lien Processing	\$40.00 per document
11	Annexation Mapping Deposit	\$2,000.00 deposit per parcel**
12	Sewer Atlas Update Fee	\$285.00***
13	Industrial & Commercial Pretreatment Permit & Inspection	\$180.00
14	Special Use Permit Application Fee	\$75.00

\* The Excess Flow Fee is only applicable to commercial, industrial or miscellaneous uses equal to or greater than 25,000 GPD.

\*\* Deposit only. Applicant is responsible for actual costs which may be more, or less, than deposit amount

\*\*\* For mainline extensions

\*\*\*\* General Manager may adjust fees charged based on actual hours spent or as deemed appropriate. (Ord. 71, 2013)

### SECTION 303. Billing and Collection

**303.1 Direct Billing.** Where applicable and permitted by law, Capacity Charges, Sewer Service Charges, Debt Service Surcharges, Sewer System-Related Service Fees, Administrative Fines and Penalties and any other fees, tolls, rates, rentals or other charges for sewer service established by this Code or other District regulation or resolution may be directly billed to a Parcel Owner. Failure of the District to mail any such bill or failure of a Parcel Owner to receive any such bill shall not excuse the Parcel Owner from the obligation of paying any applicable Capacity Charges, Sewer Service Charges, Sewer System-Related Service Fees Administrative Fines and Penalties and any other fees, tolls, rates, rentals or other charges for sewer service.

All directly billed charges and fees are due and payable upon receipt and, if not paid within thirty (30) days of mailing, shall be subject to a basic penalty equal to ten percent (10%) of the amount due. In addition, a penalty of one and one-half percent

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(1.5%) per month shall be imposed for nonpayment of the direct billed charges and basic penalty.

Subject to the requirements set forth in Health & Safety Code §5473.11, the amount of unpaid charges and fees which have been directly billed to a Parcel Owner and remain unpaid may, in the discretion of the District, be secured at any time by filing for record in the office of the Ventura County Recorder, a certificate specifying the amount of the unpaid charges and fees and the name and address of the person liable for those charges. From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in Ventura County owned by the person or afterwards, and before the lien expires, acquired by him or her. The lien shall have the force, priority, and effect of a judgment lien and shall continue for 10 years from the date of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within 10 years from the filing of the certificate provided, be extended by filing for record a new certificate in the office of the Ventura County Recorder and from the time of this filing the lien shall be extended to the real property in Ventura County for 10 years unless sooner released or otherwise discharged.

Prior to the District releasing a lien filed in accordance with Health & Safety Code §5473.11, a Parcel Owner shall be required to pay the District all charges, fees, fines, penalties and interest required to bring the account current including, without limitation, County of Ventura lien processing and recording fees.

### **303.2 Collection on Tax Roll.**

**303.2.1** Pursuant to that authority granted by Health & Safety Code §5470 *et seq.* and Health and Safety Code Sections 6520.5 and 6523.3, the District may elect to have Capacity Charges, Sewer Service Charges, Debt Service Surcharges, Sewer System-Related Service Fees, Administrative Fines or Penalties, and any other fees, tolls, rates, rentals or other charges for sewer service established by this Code or other District regulation collected on the Ventura County assessor's property tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, general taxes.

**303.2.2** Any Capacity Charge, Sewer Service Charge, Debt Service Surcharge, Sewer System-Related Service Fees, Administrative Fines or Penalties and any other fee, toll, rate, rental or other charges for sewer service established by this Code or other District regulation that is directly billed and remains unpaid for period of 60 days or more shall be treated as delinquent and, pursuant to Health and Safety Code §5473a, such delinquent amounts may be collected on the Ventura County assessor's property tax roll in accordance with the procedures set forth in Health & Safety Code §5473 *et seq.*

**303.2.3** If an Owner does not pay the amount specified in a "Notice of Violation" issued in accordance with the procedures set forth in Chapter 10 within 60 days from the date the "Notice of Violation" is mailed to the Owner, then the amount specified in the "Notice of Violation" shall be considered delinquent and unpaid charges subject to collection on the Ventura County assessor's property tax roll pursuant to the procedures set forth in Health & Safety Code §5473 *et seq.* or, in the alternative, subject to the lien procedures set forth in Health & Safety Code §5473.11.

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**303.2.3.1** Notwithstanding Section 301.2.3, if an Owner seeks a hearing and/or appeals a "Notice of Violation" issued in accordance with the procedures set forth in Chapter 9, Section 917 and that appeal results in a final determination in favor of the District, the Owner must pay the District the amount specified in that final determination within 60 days from the date the final determination is mailed to the Owner. If the Owner does not pay the amount specified in the final determination within 60 days of the mailing date, then the amount due as specified in the final determination shall be considered delinquent and unpaid charges subject to collection on the Ventura County assessor's property tax roll pursuant to the procedures set forth in Health & Safety Code §5473 et seq. or, in the alternative, subject to the lien procedures set forth in Health & Safety Code §5473.11.

**303.3 Collection by Suit.**

As an alternative to any other procedures provide for in this Section 303, the District may collect any delinquent Capacity Charge, Sewer Service Charge, Debt Service Surcharge, Sewer System-Related Service Fee, Administrative Fines or Penalties and any other fee, toll, rate, rental or other charges for sewer service established by this Code or other District regulation (and fines, penalties and interest thereon) by suit, in which event judgment in said suit shall include the cost of suit and reasonable attorneys' fees arising from such action.

**303.4 Other Collection Procedures; No Waiver.**

The powers authorized by this Section 303 shall be in addition to, and shall not constitute a waiver of, any other power of the District authorized by this District Code or other applicable local, state and federal law. The District hereby reserves all other powers authorized by applicable local, state or federal law for the collection of Capacity Charges, Sewer Service Charges, Debt Service Surcharges, Sewer System-Related Service Fee, , Administrative Fines or Penalties and any other fees, tolls, rates, rentals or other charges for sewer service established by this Code or other District regulation. (*Ord. 75, 2015*)

**303.5. Collection where District Inadvertently Fails to Bill**

Where the District inadvertently fails to bill a Parcel Owner sewer service charges for a duly permitted structure located on a Parcel, the Parcel Owner shall not be required to pay the unbilled sewer service charges, but shall be required to pay, at the time and in the manner lawfully prescribed by the District, sewer service charges for the current fiscal year in which the inadvertent billing error was discovered by the District as well as all future annual sewer service charges for which the Parcel Owner is responsible. (*Ord. 66, 2011*) (*Ord. 69, 2012*)(*Ord. 75, 2015*)

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West's Annotated California Codes  
Government Code (Refs & Annos)  
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Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

This section has been updated. [Click here for the updated version.](#)

West's Ann.Cal.Gov.Code § 65852.2

§ 65852.2. Second units in single-family and multifamily residential zones; creation by ordinance; conditional use or special use permits; ordinance to limit housing opportunities

Effective: January 1, 2003 to December 31, 2016

(a)(1) Any local agency may, by ordinance, provide for the creation of second units in single-family and multifamily residential zones. The ordinance may do any of the following:

(A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.

(B) Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of second units.

(b)(1) When a local agency which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application.

**§ 65852.2. Second units in single-family and multifamily..., CA GOVT § 65852.2**

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Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a second unit if the second unit complies with all of the following:

- (A) The unit is not intended for sale and may be rented.
  - (B) The lot is zoned for single-family or multifamily use.
  - (C) The lot contains an existing single-family dwelling.
  - (D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
  - (E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.
  - (F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.
  - (G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.
  - (H) Local building code requirements which apply to detached dwellings, as appropriate.
  - (I) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.
- (3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.
- (4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of second units if these provisions are consistent with the limitations of this subdivision.
- (5) A second unit which conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.

(d) A local agency may establish minimum and maximum unit size requirements for both attached and detached second units. No minimum or maximum size for a second unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(f) Fees charged for the construction of second units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of second units.

(h) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) or (c) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Second unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health<sup>1</sup> and Safety Code.

**§ 65852.2. Second units in single-family and multifamily..., CA GOVT § 65852.2**

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(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for second units.

**Credits**

(Added by Stats.1982, c. 1440, § 2, operative July 1, 1983. Amended by Stats.1986, c. 156, § 1, operative April 1, 1987; Stats.1990, c. 1150 (A.B.3529), § 2; Stats.1994, c. 580 (A.B.3198), § 2; Stats.2002, c. 1062 (A.B.1866), § 2.)

**Footnotes**

1 So in enrolled bill.

West's Ann. Cal. Gov. Code § 65852.2, CA GOVT § 65852.2

Current with urgency legislation through Ch. 10 of 2021 Reg.Sess

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End of Document

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Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

This section has been updated. [Click here for the updated version.](#)

West's Ann.Cal.Gov.Code § 65852.2

§ 65852.2. Accessory dwelling units in single-family and multifamily residential zones; creation by ordinance; conditional use or special use permits; ordinance to limit housing opportunities

Effective: January 1, 2017 to December 31, 2017

(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.



(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(c) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f)(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

**§ 65852.2. Accessory dwelling units in single-family and..., CA GOVT § 65852.2**

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(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of<sup>1</sup> Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**Credits**

(Added by Stats.1982, c. 1440, § 2, operative July 1, 1983. Amended by Stats.1986, c. 156, § 1, operative April 1, 1987; Stats.1990, c. 1150 (A.B.3529), § 2; Stats.1994, c. 580 (A.B.3198), § 2; Stats.2002, c. 1062 (A.B.1866), § 2; Stats.2016, c. 720 (S.B.1069), § 5, eff. Jan. 1, 2017; Stats.2016, c. 735 (A.B.2299), § 1.5, eff. Jan. 1, 2017.)

**Footnotes**

<sup>1</sup> So in enrolled bill.

West's Ann. Cal. Gov. Code § 65852.2, CA GOVT § 65852.2

Current with urgency legislation through Ch. 10 of 2021 Reg.Sess

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This section has been updated. [Click here for the updated version.](#)

West's Ann.Cal.Gov.Code § 65852.2

§ 65852.2. Accessory dwelling units in areas zoned to allow  
single-family or multifamily use; creation by ordinance

Effective: January 1, 2018 to December 31, 2019

(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted

during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.

(f)(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.

**§ 65852.2. Accessory dwelling units in areas zoned to allow..., CA GOVT § 65852.2**

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(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(6) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**Credits**

(Added by Stats.1982, c. 1440, § 2, operative July 1, 1983. Amended by Stats.1986, c. 156, § 1, operative April 1, 1987; Stats.1990, c. 1150 (A.B.3529), § 2; Stats.1994, c. 580 (A.B.3198), § 2; Stats.2002, c. 1062 (A.B.1866), § 2; Stats.2016, c. 720 (S.B.1069), § 5, eff. Jan. 1, 2017; Stats.2016, c. 735 (A.B.2299), § 1.5, eff. Jan. 1, 2017; Stats.2017, c. 594 (S.B.229), § 1, eff. Jan. 1, 2018; Stats.2017, c. 602 (A.B.494), § 1.5, eff. Jan. 1, 2018.)

**Footnotes**

1 So in chaptered copy.

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**§ 65852.2. Accessory dwelling units in areas zoned to allow..., CA GOVT § 65852.2**

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Current with urgency legislation through Ch. 10 of 2021 Reg.Sess

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End of Document

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West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 1. Planning and Zoning (Refs & Annos)  
Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

This section has been updated. [Click here for the updated version.](#)

West's Ann.Cal.Gov.Code § 65852.2

§ 65852.2. Accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use; creation by ordinance

Effective: January 1, 2020 to September 24, 2020

<Section operative until Jan. 1, 2025. See, also, § 65852.2 operative Jan. 1, 2025.>

(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

- (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
- (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
- (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
- (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
- (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from

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the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c)(1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C)(i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f)(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3)(A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling

unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h)(1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2)(A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3)(A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include

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permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

- (A) An efficiency unit.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- (3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
- (4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (5) "Local agency" means a city, county, or city and county, whether general law or chartered.
- (6) "Neighborhood" has the same meaning as set forth in Section 65589.5.
- (7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
- (8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
- (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local



government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

#### Credits

(Added by Stats.1982, c. 1440, § 2, operative July 1, 1983. Amended by Stats.1986, c. 156, § 1, operative April 1, 1987; Stats.1990, c. 1150 (A.B.3529), § 2; Stats.1994, c. 580 (A.B.3198), § 2; Stats.2002, c. 1062 (A.B.1866), § 2; Stats.2016, c. 720 (S.B.1069), § 5, eff. Jan. 1, 2017; Stats.2016, c. 735 (A.B.2299), § 1.5, eff. Jan. 1, 2017; Stats.2017, c. 594 (S.B.229), § 1, eff. Jan. 1, 2018; Stats.2017, c. 602 (A.B.494), § 1.5, eff. Jan. 1, 2018; Stats.2019, c. 653 (S.B.13), § 1, eff. Jan. 1, 2020; Stats.2019, c. 655 (A.B.68), § 1, eff. Jan. 1, 2020; Stats.2019, c. 659 (A.B.881), § 1.5, eff. Jan. 1, 2020.)

#### Editors' Notes

#### REPEAL

<For repeal of this section, see its terms.>

West's Ann. Cal. Gov. Code § 65852.2, CA GOVT § 65852.2  
Current with urgency legislation through Ch. 10 of 2021 Reg.Sess

14-7B

KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 1. Planning and Zoning (Refs & Annos)  
Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

West's Ann.Cal.Gov.Code § 65852.2

§ 65852.2. Accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use; creation by ordinance

Effective: January 1, 2021  
Currentness

<Section operative until Jan. 1, 2025. See, also, § 65852.2 operative Jan. 1, 2025.>

(a)(1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B)(i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

- (i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
- (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
- (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
- (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x)(I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c)(1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e)(1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C)(i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f)(1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3)(A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

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(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h)(1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2)(A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3)(A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:



(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local

government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

#### Credits

(Added by Stats.1982, c. 1440, § 2, operative July 1, 1983. Amended by Stats.1986, c. 156, § 1, operative April 1, 1987; Stats.1990, c. 1150 (A.B.3529), § 2; Stats.1994, c. 580 (A.B.3198), § 2; Stats.2002, c. 1062 (A.B.1866), § 2; Stats.2016, c. 720 (S.B.1069), § 5, eff. Jan. 1, 2017; Stats.2016, c. 735 (A.B.2299), § 1.5, eff. Jan. 1, 2017; Stats.2017, c. 594 (S.B.229), § 1, eff. Jan. 1, 2018; Stats.2017, c. 602 (A.B.494), § 1.5, eff. Jan. 1, 2018; Stats.2019, c. 653 (S.B.13), § 1, eff. Jan. 1, 2020; Stats.2019, c. 655 (A.B.68), § 1, eff. Jan. 1, 2020; Stats.2019, c. 659 (A.B.881), § 1.5, eff. Jan. 1, 2020; Stats.2020, c. 370 (S.B.1371), § 176, eff. Jan. 1, 2021; Stats.2020, c. 165 (S.B.1030), § 7, eff. Sept. 25, 2020; Stats.2020, c. 198 (A.B.3182), § 3.5, eff. Jan. 1, 2021.)

#### Editors' Notes

#### REPEAL

<For repeal of this section, see its terms.>

#### Notes of Decisions (10)

West's Ann. Cal. Gov. Code § 65852.2, CA GOVT § 65852.2  
Current with urgency legislation through Ch. 10 of 2021 Reg.Sess

14-87

Memorandum

**Ojai Valley Sanitary District**

March 9, 2021

To: Ordinance/Public Relations/Newsletter/Webpage Committee  
Stephen Quilici, Jack Curtis and James Kentosh

From: Jeff Palmer, General Manager

Subject: Proportional Rate Options- ADU Capacity Charges and Sewer Service Charges

OVSD, like many special districts throughout the State, uses an Equivalent Residential Unit (ERU) method for monthly and annual sewer service charges. In an effort to consider other methods of calculations, OVSD has participated with the California Association of Sanitation Agencies (CASA) in a groundbreaking statewide flow and loading study. The study has been ongoing for several years and is currently on hold due to COVID and other issues. The study looked at various residential and commercial types of units and was to determine the variations in flow from each type of unit. For instance, what is the flow per day for an apartment, condo, small home, medium home, large home, and a mobile home? What are the ranges on daily flow from low to high and is there overlap in the ranges of flow? Does a small home generate more or less flow than an apartment or mobile home? Is there a difference between a 900 square foot apartment, home, or accessory dwelling unit?

In simple terms, is there data available to provide substantial evidence to adopt a small, medium, and large category for both capacity charges and sewer service charges? This study is critical in obtaining substantial evidence that is the necessary standard for OVSD in our review of rates and consideration of any change of sewer service charge rates. Changing of rates, without having substantial evidence could be used to challenge the rate setting process.

In consideration of making rates more tied to actual data, the unit size and distance could be used as a basis for calculations. Using water use data, occupancy and plumbing fixture counts are not feasible given the lack of data in each of those categories. Square footage of units, although not precise, may be considered on the basis that the data may be available in public accessible data bases. Also, while detailed studies are ongoing related to capacity charges and sewer service rate flow and loading, interim adjustments could be considered.

Staff has prepared a detailed outline of the issues related to capacity charge rates and sewer service charge rates. Also included in that outline are summaries of parcel and unit data that is currently available, ERU ratios used by other agencies, distances from the treatment plant to areas within the OVSD service area, the range of flow generated by various unit sizes and a calculation model with draft unit rates.

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March 9, 2021  
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The outline identifies current rate structures, interim rate change options and longer-term studies and rate options. In the end, the goal will be to consider the current rate structure and a pathway to a more proportional rate for both capacity charges and sewer service charges.

14-89

## Sewer Rate Proportionality Process

### 1. Current Structure Requirements and Data Limitations

- a. Changes require adoption by ordinance
- b. All dwelling structures charged the same rate for SSC and Capacity Charge
- c. No population/occupancy data is available
- d. No water use data is available due to State Law
- e. No plumbing fixture data is available on estimated 10,000 dwelling units

### 2. Capacity Charges

- a. Current Structure
  - All dwelling units pay the same rate
  - Based on 2008 capacity charge study
- a. Interim Proposed Structure
  - ADU - By DFU at time of application, retroactive to ?????
  - All other units remain the same under current ordinance

### 3. Sewer Service Charges

- a. Current Structure
  - Implemented July 1 each year with tax roll submittal to County
  - Difficult to change tax roll after July 1 due to tax billing process
  - Requires Prop 218 hearing for any changes
  - All dwelling units same under current rate ordinance
- b. Interim Proposed Structure
  - Admin: Use Admin budget spread equally by share per parcel
  - CS: Use CS budget by lineal footage distance to drainage basin from Treatment Plant
  - TP: Adopt a rate of .7 ERU per mh/adu. All other residential remain at 1.0 ERU

### 4. Proposed Changes and Timelines

- a. Short Term: 1-2 Months
  - Adopt ordinance for ADU by DFU at application
  - No Change to all other unit type Capacity Charge – Needs Long Term item to be proportional
- b. Med Term: 2-3 months - Changes to be included in budget process and prop 218 hearing process this year
  - Adopt SSC admin by equal share
  - Adopt SSC TP rate with .7 and 1.0 ERU factor – Needs Long Term Item to become fully proportional
  - Adopt SSC CS rate using drainage basin lineal footage distance to TP
- c. Long Term: 6 – 12 months
  - Complete a Study for SSC TP related to variations of size of unit sewage flow and pollutant loading
  - Complete a revised Cap Charge Study for size of unit and economic basis of calculations

### 5. Proposed Future Changes

- Adjust capacity charges and sewer service charges based on study results
- Adopt Cap Charge for all units to be based on size of Unit – Fully proportional for all units
- Adopt SSC to add size of Unit to admin and distance components – Fully proportional for all units

14-90

Short Term and Medium Term for Sewer Service Charge and Capacity Charge items have components that are not immediately able to be converted to fully proportional type rates due to lack of data and substantial evidence. OVSD's proposed studies and CASA study will provide necessary data to provide policy and ordinance updates.

Notes:

- SSC Sewer Service Charges
- DFU Drainage Fixture Unit per uniform plumbing code
- CS Collection System
- TP Treatment Plant
- ADU Accessory Dwelling Unit
- MH Mobile Home
- ERU Equivalent Residential Unit

Draft Interim Rate Calculations

As noted above, there are some changes we could consider at the current time based on data that is available. There are also elements of data both the calculations for Capacity Charges and Sewer Service Charges that are not readily available and will need additional study to meet the requirement for substantial evidence. In the Interim, a modified proportional rate could be calculated.

For calculation of proportional annual and monthly Sewer Service Charge rates using a (Base Admin + CS by distance + TP by modified ERU) formula, the following are some possible rates.

Using distance from the Treatment Plant to the Basin number for the Collection System, Admin costs equally shared by each account (no admin for ADU since incl. in parcel base cost) and Treatment Plant costs as follows: House/Condo/Apartment 1.0 ERU, Mobile Home .7 and ADU .7 with all other units staying the same and no larger house category.

House, ADU, House + ADU, Mobile Home Draft Results

House: A01 Golden West Tract east to St Joe. (admin + CS distance + TP 1.0)	\$879.37 per year	\$73.28 per month
ADU: A01 Golden West Tract east to St Joe (no admin, CS distance + TP .7)	\$675.59 per year	<u>\$56.29 per month</u>
		\$129.57 per month
House: D03 Ventura Ave by Plant (admin + CS distance + TP 1.0)	\$536.17 per year	\$44.68 per month
ADU: D03 Ventura Ave by Plant (no admin, CS distance + TP .7)	\$252.59 per year	<u>\$21.05 per month</u>
		\$65.73/per month
Mobile Home: D03 Ventura Ave by Plant (admin + CS Distance + TP .7)	\$456.37 per year	\$38.03 per month
Current SSC Rate for all residential structures	\$708.68/year	\$58.64/month

14-91

## Capacity Unit Unknowns

Cannot know number of home occupants each day

Some restaurants closed for breakfast or certain days a week

Churches not open every day

Schools closed for holidays and summer

Residents leave the valley for work and school

Hotel rooms not occupied each and every day

Property Unit Attributes: # bed/bath, sf, plumbing fixtures



14-92

**Billing and metering options:**

Water Usage: Residential Water usage is private per State Law.

Residential Meters: "Water Wheel" type meters get plugged and are not accurate.

Flow meters in Mainlines: Ultrasonic level meters work in a pipe with steady flow levels.



14-93



## ERU Fixed or Hybrid Structure

### Rate Structure Options:

1. Fixed for all residential units
2. Varies by Unit Type – Based on assumed ERU ratio  
Reduced ratio for MFR (MH, apt, condo) varies .6, .67, .7, .75, .8, .9
3. Based on water usage flow – Monthly or Winter usage
4. Based on property attributes – requires track and update attributes for each property

Each level increase data needs



1494

## Proportional Rate Analysis

### SFR Rate Structure for Sewer Service Charges:

Los Angeles County Sanitation – Fixed with .75 ERU for Condo, .6 Apt or MH

Orange County Sanitation – Fixed with .7 ERU for MFR

Inland Empire Sanitation – Fixed with .7 ERU for MFR

Carpinteria Sanitary District – Fixed

City of Fillmore – Fixed

Goleta Sanitary – Fixed with .8 ERU per DU for MFR

Moorpark (VC #1) – Fixed

City of Simi Valley – Fixed with .7 ERU per DU for MFR

City of Thousand Oaks – Fixed

Oxnard, City of Santa Paula, City of Ventura – Hybrid based on Water Use



## Proportional Rate Analysis

### Section 302 Sewer Service Charges

SFD/Residential: 1 ERU per Single Dwelling

Commercial < 25,000 gpd: 1 ERU per 25 Fixture Units

Fixture units (points) per plumbing code

- Shower 2 points
- Toilet 4 point
- Public area Toilet 6 points
- Sink 1 point, w/ garbage disposal 2 points



14-916

# Proportional Rate Analysis

25 f.u. points = 1 capacity unit or e.r.u.  
 For residential, 1 house = 1 eru regardless of unit size  
 Assume 3 bed, 2 bath house  
 Typical 3/2 house/condo is 1600-2200 s.f.

	no.	points	total
master bath			
tub & shower	1	2	2
water closet/toilet	1	4	4
sink (lavatory), single unit	1	1	1
main bath			
tub & shower	1	2	2
water closet/toilet	1	4	4
sink (lavatory), single unit	1	1	1
dishwasher	1	2	2
sink (includes garbage disposal)	1	2	2
clothes washer	1	3	3
			21
add for each additional			
add double vanity	1	2	2
add garage or laundry sink	0	2	0
add bar sink	0	2	0
separate tub/shower add	1	2	2
add 3rd bathroom, sep. tub and shower, double	0	10	0
1/2 bath, sink and toilet	0	5	0
			25
			1



14-97

# Proportional Rate Analysis

A 01 is 60,000 feet from  
Treatment Plant = 11.4  
miles

D 01 is 9,400 feet from  
Treatment Plant = 1.7  
miles

Basin	# ERU	Distance to TP (feet)
a1	624	60,096
b2	256	58,796
a3	679	58,235
a10	642	56,626
a5	371	56,031
b1	1,429	55,832
a4	975	55,311
a6	81	54,162
a2	140	50,676
a8	249	49,214
a7	479	49,125
b3	1,536	47,249
c1	654	34,346
b4	302	33,114
c3	140	31,968
c4	836	31,405
a9	110	29,359
b5	110	27,437
c2	452	26,192
c5	767	25,783
c6	87	20,656
c7	1	19,872
d2	267	14,345
d3	955	10,280
d1	111	9,479



14-98

# Proportional Rate Analysis

OVSD 2011 Mobile Home Flow Study

Baldwin Road MH Park(179 Units + Club House)	Average 162 gpd
113 gpd - 221 gpd	
Norway Tract (128 Homes)	Average 190 gpd
146 gpd - 254 gpd	
Moreno Drive (164 Homes)	Average 250 gpd
192 gpd - 385 gpd	
Current Daily Flow per ERU	Average 114 gpd
2011 Daily Flow per ERU	Average 153 gpd

Large daily gpd variation and range overlap



14-99

## Proportional Rate Analysis

Reviewing costs, common rate component

Reviewing Treatment plant loading

A proportional rate may include:

- Administration, base cost component
- Treatment Plant, size of unit component
- Collection System, distance component

$$\text{Rate} = \text{Base} + \text{TP} + \text{CS}$$



14-99

## Current number of ERU per category

Current System does not have a category for varied SFR sizes  
Mobile Homes and MFR account for 18% of the total

Commercial/Industrial =	1,278	11%
Residential Mobile Home =	1,150	10%
Residential Multiple Unit =	858	7.6%
Residential SFR =	<u>7,969</u>	<u>70.8%</u>
Total ERU	11,255	

Budgeted ERU 12,236 due to strength factors applied to higher strength  
pollutant comm.







14-101