

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA,
ADOPTING A REVISED CHAPTER 13.34 OF THE
SAN CLEMENTE MUNICIPAL CODE ENTITLED
"CLEAN OCEAN FEE PROGRAM"

WHEREAS, the City is faced with ongoing costs for the operation, maintenance, and improvement of water quality related to its storm drainage facilities; and

WHEREAS, the City is required to continue implementation of its storm water and urban runoff management program in order to comply with the regulatory requirements of a National Pollutant Discharge Elimination System (NPDES) storm water permit adopted for the South Orange County region; and

WHEREAS, an improperly managed storm water and urban runoff management program could create problems such as increased risk of flooding, personal injury and property damage, and environmental degradation, and could subject the City to regulatory enforcement actions and monetary fines for noncompliance with NPDES storm water permit requirements; and

WHEREAS, all developed real property and, to a lesser extent, undeveloped, graded property benefits from the existence of the City's storm drainage system because those categories of property contribute storm water and urban runoff to the City's storm drainage system as a result of the impervious and semi-impervious nature of the property; and

WHEREAS, undeveloped real property in its natural state does not contribute significant amounts of storm water and urban runoff to the City's storm drainage system, due in part, to its ability to retain and absorb water; and

WHEREAS, the City Council finds that there is a need for funding for the City's storm water and urban runoff management program (referred to as the City's "Clean Ocean Program") and that continuing the existing Clean Ocean Fee for an additional six and one-half (6.5) year period is necessary to adequately fund the program; and

WHEREAS, Article XIII D of the California Constitution (Proposition 218) requires the City to follow certain procedural and substantive requirements when proposing to adopt "property-related" fees and the Sixth District Court of Appeals published its decision on June 3, 2002, finding that fees such as the City's Clean Ocean Fee are "property-related" and subject to Proposition 218; and

WHEREAS, in accordance with Proposition 218, on October 15, 2013, the City Council (i) held a duly noticed public hearing on the proposed continuation and increase of the Clean Ocean Fee, and did not receive a majority protest against the proposed fee; and (ii) adopted its Resolution No. 13-41, calling a special mail ballot election for submittal of a proposed continuation and increase of the existing Clean Ocean Fee to the owners of property subject to the fee; and

WHEREAS, the election was conducted in the manner provided by law, and the City Clerk certified the results of the election to the City Council; and

WHEREAS, the City Council, in its Resolution No. 13-54, adopted on December 17, 2013, confirmed and declared the results of the election and declared that the proposed continuation and increase of the existing Clean Ocean Fee was approved by a majority of the record owners of the property subject to the fee; and

WHEREAS, on December 17, 2013, the City Council adopted the results of the property owner vote approving the continuation and increase of the existing Clean Ocean Fee.

NOW, THEREFORE, the City Council of the City of San Clemente, California, hereby ordains as follows:

Section 1: The City Council finds as follows regarding the Clean Ocean Fee: the revenues derived from the increased fee do not exceed the funds required to provide the services as explained in the October 15, 2013 Staff Report (the "Report"), and shall not be used for any other purpose; the amount of the fee imposed on any parcel does not exceed the proportional cost of the aforementioned service; and the services for which the fee is charged are immediately available to and actually used by each affected property owner. The Report is incorporated herein by this reference as if set forth in full.

Section 2: Section 13.34.030 of Chapter 13.34 of the Code of the City of San Clemente is hereby amended to read in its entirety as follows:

Section 13.34.030 Fee--Imposition.

There is imposed on each and every developed parcel and each and every undeveloped, graded parcel within the City and the owner and occupiers thereof, jointly and severally, the City of San Clemente clean ocean fee (the "fee"). The fee is found to be reasonably related to the cost of providing storm drainage facility services for the parcels assessed the fee. The fee is reasonable and is necessary to pay for: (1) improving the quality of storm and surface water; (2) the planning, permitting, design, construction, operation, maintenance, regulation, inspection, improvement and replacement of the City's storm drainage facilities; and (3) complying with applicable local, State, and Federal storm water regulations. The fee will take effect on February 7, 2014 and will expire on June 30, 2020.

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Section 3: Section 13.34.040 of Chapter 13.34 of the Code of the City of San Clemente is hereby amended to read in its entirety as follows:

Section 13.34.040 Fee--Calculation.

The fee shall be based upon the applicable parcel's contribution of storm and surface water runoff into the City's storm drainage facilities, as expressed in drainage residential units ("DRU") or portions thereof. The fee ("DRU Value") is established at five dollars and ten cents (\$5.10) per DRU per month for parcels on private streets and six dollars and twenty three cents (\$6.23) per DRU per month for parcels on public streets. The City's Street Assessment District database shall be used to determine whether a street is classified as a private or public street. The following schedule is hereby established for parcels in the City:

Parcel Type		Monthly fee (DRU Value x ____)	Monthly fee (dollar amount)
Single Family Residential	Private street	1 DRU	\$5.10
	Public street	1 DRU	\$6.23
Multi-Family Residential	Private street	0.8 DRU per residential unit	\$4.08 per residential unit
	Public street	0.8 DRU per residential unit	\$4.98 per residential unit
Non-Residential	Private street	10 DRU per acre or fraction thereof	\$51.00 per acre or fraction thereof
	Public street	10 DRU per acre or fraction thereof	\$62.30 per acre or fraction thereof
Undeveloped, Graded	Private street	0.5 DRU plus 0.1 DRU per acre or fraction thereof over 2 acres	\$2.55 plus \$0.51 per acre or fraction thereof over 2 acres
	Public street	0.5 DRU plus 0.1 DRU per acre or fraction thereof over 2 acres	\$3.12 plus \$0.62 per acre or fraction thereof over 2 acres

Section 4: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this ____ day of _____, _____.

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ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, **JOANNE BAUDE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

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