

**ORDINANCE NO. 1754**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 13.24.190 SUBSECTIONS (D) AND (E) OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO SANITARY SEWER RATES AND FINDING THE ORDINANCE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, the City of San Clemente provides sewage services to its citizens and;  
and

**WHEREAS**, the City desires to ensure that the costs associated with the operation of the City's sewage collection and treatment systems are recovered through the fees charged for the provision of that service; and

**WHEREAS**, Raftelis Financial Consultants prepared an updated sewer model and rate study, which forecasts five years of operating revenues and expenses and sets forth a proposed rate schedule that will ensure that rate revenues due not exceed the City's costs of providing sewer services and that the rates are proportionately charged to each customer for sewer services ("Rate Study"); and

**WHEREAS**, the City Council has determined that the sewer rates charged for sewer services should be modified to recover current and projected costs and to fund capital infrastructure improvements and repairs; and

**WHEREAS**, the City Council finds and determines that, based on the entire record before the City Council, including but not limited to the Staff Report and attachments thereto:

- (1) Revenues derived from the proposed sewer rates will not exceed the funds required to provide sewer service;
- (2) Revenues derived from the proposed sewer rates will not be used for any purpose other than that for they were imposed;
- (3) The amount of the sewer rates imposed upon any parcel or person as an incident of property ownership will not exceed the proportional cost of the service attributable to the parcel;
- (4) The sewer rates are imposed for a service for services that are actually used by, or immediately available to, the owner of the property in question; and
- (5) The sewer rates are not being imposed for general government services; and

**WHEREAS**, pursuant to the provisions of Article 13D, Section 6, of the California Constitution (e.g., Proposition 218), prior to extending, imposing or increasing sewer rates, property owners shall be provided at least 45 days' notice of a public hearing to consider such modifications to the sewer rates together with an explanation of: (1) the

amount of the propose rates, (2) the basis on which the rates are calculated, (3) the reason for the rate modifications, and (4) the date, time and place of a public hearing to consider the rate modifications, together with an explanation of the rights of property owners to submit written protests to the proposed rate modifications. The proposed rate modifications may not be imposed if, prior to the close of the public hearing, written protests are submitted by property owners or tenants representing a majority of the properties subject to the modified rates ("majority protest"); and

**WHEREAS**, the City Council directed staff to begin the notice and hearing process for the Council to consider the proposed sewer rates at the May 2, 2023 City Council meeting; and

**WHEREAS**, notice of the public hearing to consider proposed adjustments to the sewer rates was mailed at least 45 days prior to the scheduled public hearing as required by state law (Cal. Cons. Art. XIID, §6); and

**WHEREAS**, written notification of the public hearing was published the first two weeks of June 2023 in the San Clemente Times prior to the Public Hearing on July 18, 2023; and

**WHEREAS**, owners of parcels of real property receiving sewer services from the City and customers of record were given the opportunity to submit written protests to the proposed rate increases prior to the close of the public comment portion of the Public Hearing with only one protest per parcel being counted; and

**WHEREAS**, on July 18, 2023, the City Council conducted a public hearing, considered testimony, and at the conclusion of the hearing determined that a majority protest did not exist and;

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

Section 1. The City Council hereby finds that the above recitations are true and correct and, accordingly, are incorporated as a material part of this Ordinance.

Section 2. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA"). This action is not a project within the meaning of the CEQA Guidelines Section 15378 as it has no potential for physical effects on the environment because it involves an adoption of certain rates and/or charges imposed by the City and does not commit the City to any specific project, and said rates and/or charges will be used to fund future projects and/or activities, each of which future projects and/or activities will be fully evaluated in compliance with CEQA when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (see CEQA Guidelines, Section 15004(b)(1)). Pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause significant effect on the environment,

is not defined as a “project” under CEQA. Therefore, approval of the rates and/or charges is not a “project” for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a “project” under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Sections 15061(b)(3) and 15273 because it can be seen with certainty that there is no possibility that approval of the rates and/or charges may have a significant effect on the environment.

**Section 3.** The procedures followed and the sewer rates referenced herein are in compliance with the California Constitution Article XIII D, California Government Code section 53755, and Health and Safety Code section 5471.

**Section 4.** Subsection D of Section 13.24.190 of the City of San Clemente Municipal Code entitled “Establishment of Fixed Rate,” is hereby amended to read in its entirety as follows:

Except as provided in the following table, for each parcel connected to the City’s sanitary sewer system, the monthly fixed rate is established as follows:

Meter Size	New Rate	Rate effective 1/1/2024	Rate effective 1/1/2025	Rate effective 1/1/2026	Rate effective 1/1/2027
1 inch (in.) and below	\$ 26.15	\$ 27.72	\$ 29.10	\$ 30.56	\$ 31.93
1 ½ in.	50.78	53.83	56.52	59.35	62.02
2 in.	80.35	85.17	89.43	93.90	98.12
3 in.	173.97	184.40	193.62	203.31	212.45
4 in.	311.93	330.64	347.18	364.54	380.94
6 in.	642.05	680.58	714.61	750.34	784.10

**Section 5.** Section 13.24.190, subsection E of the City of San Clemente Municipal Code, entitled “Sewage Commodity Rate,” is hereby amended to read in its entirety as follows:

E. Sewerage Commodity Rate. In addition to the fixed rate established in subsection (D) of this section above, every customer whose property is connected to the city sanitary sewer system shall pay a sewer commodity rate. The sewer commodity rate shall be based upon the per unit cost of water as multiplied by a portion of the total quantity of water used on the property as calculated in the manner provided below.

Classification	New Rate	Rate effective 1/1/2024	Rate effective 1/1/2025	Rate effective 1/1/2026	Rate effective 1/1/2027	x Portion Total Water Used
Residential	\$ 3.05	\$ 3.23	\$ 3.39	\$ 3.56	\$ 3.72	75% lowest WMA*
Multi-family	3.04	3.23	3.39	3.56	3.72	85% during billing period
Low strength	1.28	1.36	1.42	1.50	1.56	80% during billing period
Medium strength	2.73	2.90	3.04	3.19	3.34	85% during billing period
Medium-High strength	4.27	4.52	4.75	4.99	5.21	85% during billing period
High strength	7.17	7.60	7.98	8.38	8.75	85% during billing period
Mixed Use	2.56	2.71	2.85	2.99	3.13	85% during billing period

\* The sewer commodity rate for single-family dwelling shall be annually calculated by multiply the per unit rate times seventy-five (75%) of the Winter Month Average (WMA). For the purposed of this section, winter months shall be defined as February and March. The WMA shall be calculated using the total consumption for a service location during the prior fiscal year's winter months divided by the number of winter months in which there was water consumption. If the WMA results in a fraction, the result shall be rounded to the nearest whole number. If there was no winter month in the previous fiscal year in which water was actually consumed, the sewer commodity rate shall be based on a City average during the winter months and shall be annually calculated during the winter averaging process.

Section 6: 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 15th day of August, 2023.

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        )

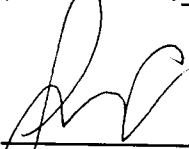
I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1754 having been regularly introduced at the meeting of July 18, 2023, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the 15th day of August, 2023, and said ordinance was adopted by the following vote:

AYES: CABRAL, ENMEIER, LOEFFLER, MAYOR DUNCAN

NOES: KNOBLOCK

ABSENT: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 28<sup>th</sup> day of August, 2023.

  
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 CITY CLERK of the City of  
 San Clemente, California

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Elizabeth A. Mitchell, CITY ATTORNEY

