

ORDINANCE 2024-01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA,
AMENDING ENCINITAS MUNICIPAL CODE CHAPTER 18.08 REGARDING SEWER
CONNECTION FEES AND SEWER SERVICE CHARGES**

WHEREAS, 18.08.030 authorizes the City Council of the City of Encinitas to set sewer service charges; and,

WHEREAS, 18.08.080 prescribes the manner of calculating annual sewer service charges; and,

WHEREAS, 18.08.100 establishes procedures for voluntary submetering to distinguish between indoor and outdoor water use for the purpose of sewer billing.

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

SECTION ONE:

That Encinitas Municipal Code Chapter 18.08 SEWER CONNECTION FEES AND SEWER SERVICE CHARGES, Section 18.08.030 Sewer Service Charges, is hereby amended to read as follows.

18.08.030 Sewer Service Charges.

- A. The sewer service charges shall be set by ordinance. (See Health and Safety Code Section 5471.)
- B. A sewer service charge is levied and charged upon each premises which discharges sewage that ultimately passes through the City's sewer system.
- C. The property owner of record shall be responsible for payment of the sewer service charge. Any agreement between landlords and tenants to the contrary will not relieve the landlord or record owner of the property of the responsibility for payment of the sewer service charges to the City.
- D. Sewer service charges may be collected either through the tax roll of the County of San Diego, on the property's water bill, or by issuing a manual bill for payment. The method utilized is determined by the Public Works Director or his/her designee.
- E. Payment of sewer service charges for new connections are paid for at the time the wastewater discharge permit is issued. If the permit is for an existing building the sewer service charges will be prorated for the fiscal year based upon the date the permit is issued. If the permit is for new construction or connection, then a time credit of four months shall be allowed when computing the amount of sewer service charges. This prorated amount shall be paid at the time the wastewater discharge permit is issued.
- F. Provided, however, in the case of other businesses and establishments that have unusual character insofar as sewage is concerned, the rate shall be established in each case by the City Manager or his/her designee. The rate so established shall be

fixed in consideration of the estimated or actual volume of flow and suspended solids (ss) and/or biological oxygen demand (BOD) content from such.

- G. The annual sewer service charges for all properties discharging sewage that passes through the City's sewer system, excluding schools, will be determined by applying the volume sewer charge per hundred cubic feet (HCF) for each customer classification to each parcel as determined by the water utility meter readings. The annual sewer service charges for schools shall be determined by applying the number of equivalent dwelling units (EDUs) assigned per the average daily attendance of pupils at the school at the current rate set by ordinance.

SECTION TWO:

That Encinitas Municipal Code Chapter 18.08 SEWER CONNECTION FEES AND SEWER SERVICE CHARGES, Section 18.08.080 Calculation of Annual Sewer Service Charge, Subsection (A), is hereby amended to read as follows.

18.08.080 Calculation of Annual Sewer Service Charge.

- A. Single-Family Residential. The annual sewer service charge for single-family residential customers shall be determined by applying the sewer charge per hundred cubic feet (HCF) to the adjusted annual water usage. For customers of the San Dieguito Water District, the service charge will be based on the two lowest bi-monthly water meter readings from December through May, multiplied by three to arrive at the annual water usage in HCF. For customers of the Olivenhain Municipal Water District, the service charge will be determined by combining monthly water meter readings from December through May to produce three bi-monthly readings. The service charge will be based on the lowest two readings multiplied by three to arrive at the annual water usage. Each of these water readings will then be averaged over 5 years. The averaged annual water usage is then adjusted by applying a percentage return to sewer to determine the adjusted annual water usage. The minimum and maximum charges established by ordinance will apply to all single-family residential customers whose water utility meter readings fall under or over the established limits. Single-family residential customers that have sub meters to track outdoor water use will have the total annual flow to the meter that is for indoor usage billed with no winter month adjustment or any percentage return to sewer adjustment and no 5-year averaging.

SECTION THREE:

That Encinitas Municipal Code Chapter 18.08 SEWER CONNECTION FEES AND SEWER SERVICE CHARGES, Section 18.08.100 Submeters, is hereby amended to read as follows.

18.08.100 Submeters.

If the property owner determines that it is in their best interest, a submeter may be used to demonstrate to the satisfaction of the City that the percentage of return to sewer is less than the amount calculated for that customer classification.

- A. Readings obtained from submeters installed for the purpose of measuring exclusively indoor or outdoor water use in HCF may be used by the City for the purpose of calculating the annual water usage if the following conditions are met:
 - 1. An application requesting that the water readings from a submeter be considered in determining the annual sewer service charge be completed by the customer prior to the installation of a new submeter.
 - 2. The use of the submeter be pre-approved by the Utilities Director or his/her designee prior to installation.
 - 3. The submeter be connected to a water line exclusively used for indoor or outdoor water use.
 - 4. An annual service charge may be imposed by the respective water agency for the meter reading during which the usage is recorded. The above-mentioned charge shall be set by ordinance.
 - 5. An annual service charge may be imposed by the respective water agency for the meter reading during which the usage is recorded. The above-mentioned charge shall be set by ordinance.
- B. A penalty will be imposed by the City for any submeter found to be tampered with, adjusted, or improperly installed to produce false readings. (Ord. 2002-05)
- C. Properties utilizing submeters will have their bills calculated based upon the actual annual water use delivered by the meter that tracks indoor use excluding the flows to the irrigation meter, see section 18.08.080 for other clarifications on billing for these properties.

SECTION FOUR: ENVIRONMENTAL COMPLIANCE.

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" under Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in the direct or indirect physical change in the environment.

SECTION FIVE: CONSISTENCY.

Any provision of the Encinitas Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION SIX: SEVERABILITY.

If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, 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 portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each

chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional.

SECTION 7: EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after its passage and the City Clerk of the City of Encinitas is hereby authorized to use summary publication procedures pursuant to Government Code Section 36933 utilizing the Coast News, a newspaper of general circulation published in the City of Encinitas.

This Ordinance was introduced at a regular meeting of the City Council held on the 28th day of February 2024.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 13th day of March 2024.

DocuSigned by:
A. J. Kranz
DEA18C6BB88E436
Tony Kranz, Mayor

ATTEST:

DocuSigned by:
Kathy Hollywood
43EC63D34D2448C...
Kathy Hollywood, City Clerk

APPROVED AS TO FORM

DocuSigned by:
Tarquin Preziosi
160D9889759741D...
Tarquin Preziosi, City Attorney

CERTIFICATION: I, Kathy Hollywood, City Clerk of the City of Encinitas, California, do hereby certify under penalty of perjury that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 28th day of February, 2024 and that thereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the 13th of March, 2024 by the following vote, to wit:

- AYES: **Blackwell, Ehlers, Hinze, Kranz, Lyndes**
- NOES: **None**
- ABSENT: **None**
- ABSTAIN: **None**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Encinitas, California, this 13th day of March, 2024

DocuSigned by:
Kathy Hollywood
43EC63D34D2448C...
Kathy Hollywood, City Clerk