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JUN 03 1994 *MSM*

RECORDS DEPARTMENT
UNIFIED SEWERAGE AGENCY

IN THE BOARD OF DIRECTORS
FOR THE UNIFIED SEWERAGE AGENCY
OF THE COUNTY OF WASHINGTON

ORDINANCE 29

(An Ordinance Relating to Charges for
(Use of the Unified Sewerage Agency
(Sanitary Sewer System . . . Surface Water
(Management System; Prescribing Procedures
(for Payment of Charges; Amending Ordinance
(Nos. 26, 27 and 28; and Declaring an
(Emergency.

The Board of Directors of the Unified Sewerage Agency of
Washington County, Oregon ordains:

SECTION 1. PURPOSE AND FINDINGS.

- A. The purposes of this Ordinance are: 1) to amend provisions of Ordinances 26, 27 and 28 to allow the Agency and member cities to implement sanitary sewer service charges based on the customer's volume of water consumption; 2) to facilitate billing of sanitary sewer service charges and storm and surface water management system user charges by intergovernmental agreement; 3) to amend the formal administrative review process for actions of the Agency; and 4) to revise administrative procedures and collection remedies relating to service charges.
- B. The Board hereby finds that it is necessary and appropriate to adopt a system of sewer use charges based upon water consumption to the extent practicable. A rate structure based on average measured volume of water usage for a representative

time period will result in a more equitable and proportional distribution of the costs of operation, maintenance, extension and replacement of the sanitary sewer transportation and treatment system, and of the costs of providing sanitary sewerage service.

SECTION 2. REPEAL.

Ordinance 26, Sections 2P, 6, 8, and 9B; and Ordinance 28, Sections 3G and 5 are hereby repealed.

SECTION 3. DEFINITIONS.

- A. Billing Period. Shall mean a regular period of time for which service charges are imposed and billed.
- B. Customer. Shall have the same meaning as "user."
- C. Occupant. Shall mean the person or persons residing or doing business on the property. In a family or household situation, the occupant responsible for the obligations herein imposed shall be the adult heads of the household, jointly and severally. In a dwelling or office sharing situation, the adult occupant legally responsible for the management or condition of the property shall be responsible.
- D. This Ordinance. Shall include Ordinance No. 29, any rule or Resolution and Order adopted pursuant thereto.
- E. User. Shall mean any person who uses property which maintains connection to, or discharges to, the Agency sanitary sewerage or surface water management system, or otherwise receives services from either system. If the property has domestic water service from a water purveyor, the person who is

responsible for the water meter serving the property is deemed to be the user. If the property is not served by a water purveyor, the occupant of occupied property is deemed the user. If such property is not occupied, the person who controls or has the right to occupy it shall be deemed the user.

- E. Water Purveyor. Shall mean a city, district, or other entity, public or private, independent of the user that furnishes water to a user, meters the quantity of water used, and provides customer water usage data to the Agency.

SECTION 4. AMENDMENTS TO ORDINANCE 26.

- A. **Ordinance 26, Section 2, Subsection D is hereby amended to read:**

D. Date of Imposition or Imposition Date. Shall mean the first day of each billing period or such other date designated by the Board at which time a user charge is imposed and becomes the legal obligation of the user. The obligation may include the cost of services to be provided during the billing period or for services previously provided to the same person under this Ordinance.

- B. **Ordinance 26, Section 2, Subsection I is hereby amended to read:**

I. Improved Single Dwelling Parcel. Means a lot or parcel on which a single family dwelling or duplex exists at any time during the same billing cycle as the imposition of the charge.

C. Ordinance 26, Section 4, is hereby amended to read:

SECTION 4. SURFACE WATER MANAGEMENT SYSTEM USER CHARGE.

- A. The surface water management system user charge is imposed on every user within the Agency of the storm and surface water system on the imposition date. The charge may be billed during or after the provision of service, with payment due after provision of service; or may be required to be paid in advance of the provision of service for the billing period. The charge due for the billing period shall be the obligation of the user of the public storm system on the imposition date, notwithstanding whether the user is the addressee of the bill.
- B. The surface water management user charge shall be imposed upon any person who uses or discharges stormwater to the public storm and surface water system by: 1) maintaining impervious surface connected to (directly or indirectly) and capable of discharge to the public surface water management systems; or 2) actually discharging storm or surface water into the system; or 3) for which a specific request for surface water management service has been made. Said charge shall be charged for all users of properties covered in whole or in part by impervious surface area within the boundaries of Agency, including incorporated cities. A property containing impervious surface is presumed to

discharge wastewater to the storm and surface water system, and to generate a demand for public storm and surface water management services, unless that property has an on-site disposal system which meets the standards of Section 8 and any rules adopted thereunder.

D. Ordinance 26, Section 5, is hereby amended to read:

SECTION 5. CALCULATION OF IMPERVIOUS SURFACE AND AMOUNT OF CHARGE.

- A. The determination of the existence for all parcels and of quantity for nonsingle dwelling unit parcels of impervious surface for a lot or parcel shall be estimated using one or more of the following: aerial photographs, assessment records, building permits, construction plans, site visits, ad valorem property tax records, storm and surface water system connection permits, field surveys, or other sources deemed reliable by the Agency.
- B. All improved single dwelling units shall be charged a uniform charge based on one ESU. Each unit of a duplex shall be charged uniformly based on one ESU.
- C. Impervious surface for each improved multi-family, condominium, commercial, industrial or institutional parcel shall be estimated individually. The amount of impervious surface for each such parcel shall be divided by 2640 square feet. The quotient shall be the number of ESUs for each parcel. Impervious surface

shall include a proportionate share of any common areas, private streets, parking lot or other facilities serving the use. Fractional values may be rounded.

- D. The rate for the service charge shall be calculated in accordance with Section 3 and in accordance with the procedure set forth in Section 9A, so as not to exceed the estimated surface water management program costs, less other projected revenue, divided by the estimated total number of ESUs connected to the Agency storm and surface water management system.
- E. The Board may prescribe by rule further detail regarding determination, calculations, and classification of impervious surfaces; and for payment of a deposit not to exceed one year's estimated surface water management service charge as a condition of connection of property to the Agency system, or for continued maintenance of connection to the system.

SECTION 5. AMENDMENTS TO ORDINANCE 27.

A. Ordinance 27, Section 8.B.1 is hereby amended to read:

B. Administrative Appeal.

- 1. This Ordinance, all rules, regulations, applications and interpretations thereof shall be initially made by the Agency. For the purposes of this subsection, "Agency" shall be defined as any employee or representative authorized and designated by the General Manager to render

interpretive rulings of this Ordinance. No review of the application of any rule, interpretation, or variance from a rule shall be authorized under this section unless the person seeking the review has first requested in writing an interpretation by the Agency. The appeal shall be filed in writing and must be actually received by the Agency no later than the thirtieth day following the Agency's written decision under this subsection.

SECTION 6. AMENDMENTS TO ORDINANCE 28.

A. Ordinance 28, Section 5, is hereby amended to read:

SECTION 5. SANITARY SEWER SERVICE CHARGE.

A. The sanitary sewer service charge shall be imposed where one or more of the following conditions are present: 1) for the occupancy of property which maintains connection to the public sanitary sewerage system; 2) for the actual discharge of wastewater into the system; or 3) for maintenance of water service including a privately owned well or other domestic, commercial, or industrial water service to a property which is connected to the sewer system; 4) following issuance of a sewer system connection permit and installation of a domestic water meter. Imposition of the charge shall be subject to the limitations and exceptions

provided in this Ordinance and established by Resolution and Order.

- B. The sanitary sewer service charge rates may be established by classes of users having generally similar wastewater characteristics, such as volume, strength, or other factors. Rates may be established for units of service which reasonably approximate the cost of providing service, taking into consideration available information, cost of measurement and administration, and the cost of converting to an alternative system. Such units of service include, but are not limited to, dwelling units, equivalent dwelling units, fixture units, and measurement of water usage.
- C. Rates may be established including base (fixed) and use (variable) components, based on elements of the estimated cost of services. For the use component such as domestic water usage, measurement of usage may be based on a period of time which is representative of typical usage for the subject group of customers. Rates may be set at fixed average amounts for those users whose water use is impractical to measure, or for which water usage data is not readily available to the Agency. The sewer user charge rate structure may

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include both fixed rates, and consumption-based rates composed of base and use charges.

B. Ordinance 28, Section 17.A. is hereby amended to read:

- A. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other Agency decision must be filed in writing and actually received by the Agency within 30 days of the date of the Agency's written decision.

SECTION 7. SERVICE CHARGE BILLING.

- A. Payment of the sanitary sewer service charge and the storm and surface water management service charge shall be the responsibility of the user. Where water service is furnished to the premises by a water purveyor, the person responsible for payment for such water service is deemed to be the user. Where such water service is not furnished to the premises, the occupant shall be deemed to be the user and responsible for charges for single-unit occupied property. For multi-unit or unoccupied property not receiving water service from a water purveyor, the charge shall be the responsibility of the person who has the authority, direct or indirect, to control occupancy of the property.
- B. User charges shall be the personal obligation of the user on the imposition date, regardless of whether that person has any ownership interest in the property. Such charges shall constitute a debt due the Agency as of the date of imposition.

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- C. Sewer service charges and surface water management system user charges may be billed individually or together and may be billed with domestic water service charges or such other municipal utility or service charges as the Board may determine by Resolution and Order or by contract.
- D. At least 14 days prior to the due date, each user shall be sent a bill for the amount due for applicable Agency service charges. Mailing the bill by regular mail to the person responsible for payment of water service charges, to the occupant at the service address or to the owner of record as shown in the assessor records shall satisfy this requirement. There shall be a rebuttable presumption that the owner of the real property, as shown in the records of the appropriate county assessor, is the occupant.
- E. The recipient of a bill for service charges shall have 30 days from the billing date to file a notice of nonoccupancy. The notice shall indicate the relationship of the recipient to the property (e.g., owner, lessor, mortgagee), whether on the imposition date the property was occupied, and if so, by whom.
- F. Upon receipt of the notice, the Agency shall determine who is obligated for payment. Based on this determination, the Agency shall:
1. Issue a new bill to the correct user if someone other than the original recipient was the user;
 2. Reissue the bill to the recipient if it is found that that person was the user;

3. Issue a bill to the owner as the user if the property was not occupied.
4. Issue no bill for previous service if the previous user cannot be located in a cost-efficient manner.

The Agency may take into account any reasonably reliable information available to it, including utility or water district records.

- G. Failure to file the notice such that it is actually received by the Agency within the 30 days of the mailing date of the bill shall conclusively establish that the original addressee was the user on the imposition date.
- H. Notwithstanding any other provision of this Ordinance, any person may agree in writing to be responsible for payment of the charge. Upon filing of such a written authorization with the Agency, subsequent bills shall be sent to that person and that person shall be deemed to be the user.
- I. It shall be a violation of this Ordinance to knowingly provide false information to the Agency regarding any fact related to billing of a sanitary sewer service charge or surface water management service charge or other charge of the Agency.
- J. The Board may prescribe by rule for payment of a deposit not to exceed one year's estimated sewer service charge or storm and surface water management charges or both as a condition of connection of property to the Agency system, or for continued maintenance of connection to the system.

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- K. Any person who has paid the full amount due in advance of receiving service shall be entitled to a refund if the person ceases to be the user. The refund shall be effective on the date the property is vacated or sold and based on the number of days remaining in the billing period. The refund is waived unless a written request for refund is filed within 30 days of vacating or selling the property. The request shall include documentation reasonably deemed adequate by the Agency.
- L. Nothing in this Ordinance shall be deemed to make the owner of property responsible for the sanitary sewer service charge or storm and surface water management user charge of a tenant; or to require any person to pay service charges incurred by prior occupant or user of property. No person shall be required to pay to reinstate service where that service was terminated due to the delinquency of the account of a prior occupant or user, except where the service connection (sewer or storm system lateral) has been severed or removed.

SECTION 8. DELINQUENCY, COLLECTION, INTEREST AND PENALTIES.

- A. Charges imposed under this Ordinance are deemed delinquent when not paid in full by the due date provided in a billing for the charge.
- B. It shall be unlawful and a violation of this Ordinance for any person to use, discharge wastewater to, or maintain connection to, the Agency sanitary sewerage system or surface water management system without paying the appropriate charges and fees established in this section or any rule adopted pursuant

hereto. If no billing is sent, such charges are deemed delinquent 30 days from the date services were provided to a user.

- C. Delinquent charges, together with applicable interest, late payment charges and penalties may be collected pursuant to this section by the General Manager or his designee, with the assistance of Agency legal counsel, without further action or authorization by the Board. Such charges, interest, and penalties may be recovered by the Agency in any manner provided by law, including an action in the small claims, district or circuit court of Washington County or other appropriate county.
- D. In addition to remedies provided for collection of a debt, the Agency may seek a temporary or permanent injunction prohibiting continued occupancy of premises, requiring disconnection of the premises from the public surface water management system, and termination of sanitary sewer service to the user's premises.
- E. The Board may prescribe by Resolution and Order a schedule of interest, late payment and penalty charges to be imposed upon delinquent amounts.
- F. In a collection action under this Ordinance the prevailing party shall be entitled to its costs and reasonable attorney fees, including at trial and on appeal.
- G. In addition to the right of the Agency to bring a civil action to collect any delinquent charges or enforce any provision of this Ordinance, the Agency may take any of the following actions to secure payment:

1. The Agency may refuse to issue any permit to any person who is delinquent in any payment due under this Ordinance;
2. The Agency may terminate provision of storm and surface water service to premises used by the user;
3. The Agency may terminate sanitary sewer service to premises used by the user;
4. The Agency may terminate water service to the premises used by the user, pursuant to agreement with any water service purveyor.

Termination of service pursuant to this subsection shall be according to procedures adopted under Section 9A. If the Agency terminates service as provided in this subsection, the cost of such disconnection may be added to the amount of any other delinquent charges and shall be recoverable in the same manner as are such charges.

H. Nothing in this Ordinance shall be deemed to create a lien against property, except where such lien arises by operation of law following a court judgment. This Ordinance does not authorize collection of delinquent user charges pursuant to ORS 451.510(2) and ORS 454.225 except upon written consent of the property owner.

SECTION 9. REQUEST FOR SERVICE; DISCONNECTION FROM SERVICE; TERMINATION AND SUSPENSION OF USER CHARGES.

A. The issuance of a sanitary sewer service connection permit and issuance of a storm and surface water management system connection permit relating to a property or parcel shall be deemed to be a specific request for provision of sanitary sewer

service or storm and surface water service, respectively, to that property, by the user of the property. In addition, installation of water service including installation of a water meter or a well to serve premises connected to the sanitary sewer system shall constitute a specific request for sanitary sewer services by the user of the property.

- B. Any user of the public sanitary sewer system or surface water management system may disconnect from service the property served by the system and terminate further user charges by utilizing the procedure in Ordinance 26 Section 8 as to surface water management user charges, and the provisions of this section for sanitary sewer user charges.
- C. Any user or owner of property connected to the public sanitary sewer system may disconnect the property from service and terminate further user charges relating to that property solely and exclusively by using the process in this subsection. The person desiring to disconnect the property shall make application on a form provided by the Agency and pay the fee established therefor. The application shall be signed by the requestor and by the occupant and owner of the property; shall provide evidence that water service to the property has been disabled or otherwise terminated. For property not served by a water purveyor, the application shall also include evidence of a demolition permit or removal permit for any structure on the property connected to the sanitary sewer system; or disabling or removal of the lateral sewer connecting the

structure to the public sewer system, or of approval of an alternative wastewater disposal system approved by an appropriate public authority. Upon receipt of a complete application for disconnection and verification of information thereon, the Agency shall issue a permit for disconnection. Whether performed by the Agency or other person, the Agency shall inspect the disconnection.

- D. The Board may adopt by Resolution and Order additional provisions, criteria and administrative procedures relating to:
1. disconnection from sewer service; and
 2. suspension and proration of fixed rate user charges and base and use charge portions of consumption-based sewer service charges upon the establishment of a new service account or a change in the user.

SECTION 10. ADOPTION OF RULES; INTERPRETATIONS AND APPEALS.

A. Adoption of Rules.

1. Upon the recommendation of the General Manager, the Unified Sewerage Agency Advisory Commission (USAAC), or upon its own motion, the Board may, by Resolution and Order, promulgate rules pertaining to matters within the scope of Ordinance 28 and this Ordinance, in the same manner as provided in Ordinance 27, Section 8A.

B. Appeals.

1. Administrative appeals relating to sanitary sewer service charges and storm and surface water service charges shall be taken according to the procedures and requirements of

Ordinance 27, Section 8B, provided however that the following determinations only may be appealed:

- a. A determination that the person is obligated to pay the service charge imposed;
- b. A determination of the proper calculation of the amount due from the person. This shall not include, however, an objection to the overall establishment of the sanitary sewer user charge, surface water management charge or the amount per EDU, ESU or other unit of measurement established by the Board; the determination of the fixed and variable portions of the sanitary sewer service charge rate, or the establishment of classes of users or user characteristics under Section 3.
- c. A discretionary decision implementing a rule adopted by the Board under this Ordinance if an appeal is provided in the Order adopting the rule.
- d. The 30 day period to appeal shall be calculated from the due date of the original or reissued bill in response to a notice of nonoccupancy, whichever is later. Demonstrated failure of a user to receive a bill shall extend the period to appeal until 30 days from the due date of the first bill actually received or 45 days from other actual knowledge of the bill or the charges on the part of the user.

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SECTION 11. SEVERABILITY.

If any section, subsection, provision, clause, or paragraph of this Ordinance, or rules adopted pursuant hereto, shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules; and every other portion thereof shall remain in full force and effect.

SECTION 12. JUDICIAL REVIEW.

Final decisions of the Board, the General Manager, the Agency, or its designated review authority under this Ordinance shall be reviewable solely and exclusively under the provisions of ORS 34.010 through 34.100.

SECTION 13. SAVINGS CLAUSE; TRANSITION.

- A. All charges, rates and fees imposed and actions of the Agency taken on or before June 30, 1994, pursuant to Ordinances 26 and 28 and other Agency ordinances, on or before June 30, 1994, shall remain in full force and effect and shall be subject to collection under this Ordinance.
- B. Notwithstanding any other provision of this ordinance, no charge incurred or imposed prior to July 1, 1994, and no claim of the Agency for payment of such charge, shall be transferred from a tenant to the owner of the real property to which the charge or claim relates, without his or her consent.

SECTION 14. DECLARATION OF EMERGENCY.

This Ordinance being necessary for the immediate preservation of public health, safety, and welfare of the citizens of the

Unified Sewerage Agency, an emergency is hereby declared to exist, and this Ordinance shall take effect upon its passage.

ENACTED this 21st day of June, 1994, being the date of the third reading and first public hearing before the governing body of the Unified Sewerage Agency of Washington County, Oregon.

UNIFIED SEWERAGE AGENCY OF
WASHINGTON COUNTY, OREGON
By the Board of County Commissioners
of Washington County, Oregon,
As Its Governing Body.

ADOPTED

Kathy Christy
Chairman

Barbara Hejtmanek
Recording Secretary

READING PUBLIC HEARING

1 6-7-94 6-21-94

2 6-14-94

3 6-21-94

VOTE: AYE 5 Roll Call: Hays, Christy, Rogers,
Katsion, Peters

NAY -

Barbara Hejtmanek
Recording Secretary

Date: June 21, 1994



AGENDA

UNIFIED SEWERAGE AGENCY
BOARD OF DIRECTORS

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Agenda Title Ordinance 29--An Ordinance Relating to Charges for Use of the Unified Sewerage Agency Sanitary Sewer System and Surface Water Management System; Prescribing Procedures for Payment...

To Be Presented By Gary F. Krahmer, General Manager (ls) *JK* 6/8/94

SUMMARY (Attach Supporting Documents If Necessary)

of Charges; Amending Ordinances Nos. 26, 27, and 28; and Declaring an Emergency--Third Reading, First Public Hearing

On May 31, 1994, the Board authorized and directed County Counsel to file Ordinance 29. This ordinance modifies existing ordinances to enable the Agency to implement volume-based sewer use charges and to combine billing of sewer, stormwater, and domestic water services through the Tualatin Valley Water District.

Key changes implemented by Ordinance 29 are:

- a) to base the responsibility for payment of sewer use and stormwater service charges on responsibility for water service; and
- b) to modify billing and related administrative provisions to be compatible with those of the Water District. Failure to pay for sanitary sewer or stormwater service charges would be grounds for termination of water service.

FISCAL IMPACT: None

REQUESTED ACTION: Conduct Third Reading, First Public Hearing of Ordinance 29; Adopt the Ordinance

ADOPTED

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Agenda Item No. <u>4.6.</u>
Date: <u>6/21/94</u>