

ORDINANCE NO. OC SAN-59

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
ORANGE COUNTY SANITATION DISTRICT ADOPTING
CAPITAL FACILITIES CAPACITY CHARGES, AND
REPEALING ORDINANCE NO. OCSD-57

WHEREAS, Health & Safety Code Section 5471 authorizes the Board of Directors of the Orange County Sanitation District (“District”) to impose fees and other charges for services and facilities furnished by OC San in connection with OC San’s wastewater collection, treatment, disposal, and reuse system.

WHEREAS, the Board of Directors of the Orange County Sanitation District (the “District”) levies Capital Facilities Capacity Charges (“Capacity Charges”) to fund new capital projects or improve existing capital projects.

WHEREAS, OC San will use revenues collected from Capacity Charges to pay for capital projects identified in OC San’s 2017 Facilities Master Plan (“Master Plan”).

WHEREAS, OC San previously retained HDR Engineering, Inc. to evaluate OC San’s projected revenue needs and recommend service fees and Capacity Charges for the period July 1, 2023 to June 30, 2028. In December of 2022, HDR Engineering, Inc. issued its “Final Wastewater Rates, Fees, and Charges Study” (“HDR Report”). OC San’s Board of Directors received the HDR Report on December 15, 2022, and the HDR Report is on file with OC San; and

WHEREAS, the recommendations set forth in the HDR Report are based on various studies and plans including, among others, financial forecasts and OC San’s 2017 Facilities Master Plan (“Master Plan”). The Master Plan identified the capital improvement projects that will be needed over the next 20 years and estimated the cost of each project. OC San’s Board of Directors adopted the Master Plan on December 20, 2017; and

WHEREAS, OC San recently retained Carollo Engineers to recommend a formula for levying Capacity Charges against non-exempt accessory dwelling units that complies with newly enacted legislative mandates codified in Government Code Section 65852.2. On June 2, 2021, Carollo Engineers provided its accessory dwelling unit capacity charge recommendation to OC San (the “Carollo Letter”), which OC San hereby adopts. The Carollo Letter is on file with OC San.

WHEREAS, OC San finds there is a reasonable relationship between the Capacity Charge’s use and the type of development project on which the capacity charge is imposed. OC San’s determination is based on recommendations provided by HDR Engineering, Inc. in the HDR Report and the Carollo Letter.

WHEREAS, OC San finds there is a reasonable relationship between the need for the capital facility and the type of development project on which the Capacity Charges is imposed. OC San’s determination is based on recommendations provided by HDR Engineering, Inc. in the HDR Report and the Carollo Letter.

WHEREAS, OC San finds there is a reasonable relationship between the amount of the Capacity Charges and the cost of the capital facility attributable to the development on which the fee is imposed. OC San’s determination is based on recommendations provided by HDR Engineering, Inc. in the HDR Report and the Carollo Letter.

WHEREAS, OC San finds the Capacity Charges do not exceed the estimated reasonable cost of providing sewer services to any parcel. OC San’s determination is based on recommendations provided by HDR Engineering, Inc. in the HDR Report and the HDR Letter.

WHEREAS, OC San wishes to exempt certain accessory dwelling units and all junior accessory dwelling units from capacity charges pursuant to Government Code Sections 65852.2 and 65852.22, and

NOW, THEREFORE, the Board of Directors of the Orange County Sanitation District does hereby ORDAIN:

SECTION I. Adopt Capital Facilities Capacity Charges

TABLE OF CONTENTS

ARTICLE I:	<u>RECITAL OF FINDINGS</u>
	Section 1.01. Findings – Declaration of Intent
ARTICLE II:	<u>CAPITAL FACILITIES CAPACITY CHARGES</u>
	Section 2.01. Purpose and Scope
	Section 2.02. Definitions
	Section 2.03. Connection Permits: Required
	Section 2.04. Capital Facilities Capacity Charge: Payment
	Section 2.05. Capital Facilities Capacity Charge: Time of Payment
	Section 2.06. Capital Facilities Capacity Charge: Schedule of Amounts
Table A	Capital Facilities Capacity Charges – Non-Residential, Residential Accessory Structures, and Accessory Dwelling Units
Table B	Capital Facilities Capacity Charges – Residential
Table C	Plan Check and Inspection Fee Schedule
	Section 2.07. Supplemental Capital Facilities Capacity Charge: Significant Commercial – Industrial Users – Special Purpose Dischargers – Definitions
	Section 2.08. Supplemental Capital Facilities Capacity Charge: New Significant Commercial – Industrial Users
	Section 2.09. Supplemental Capital Facilities Capacity

- Charge: New Special Purpose Dischargers
- Section 2.10. Supplemental Capital Facilities Capacity Charge: Existing Significant Commercial – Industrial Users – Special Purpose Dischargers
- Table D Supplemental Capital Facilities Capacity Charges
- Section 2.11. Capital Facilities Capacity Charge: Replacement
- Section 2.12. Capital Facilities Capacity Charge: Remodeled
- Section 2.13. Capital Facilities Capacity Charge Exemption: Accessory Dwelling Units
- Section 2.14 Junior Accessory Dwelling Units
- Section 2.15. Payment of Capital Facilities Capacity Charge: Off-Site Sewers Not Part of Master Plan Relative to Reimbursement Agreements
- Section 2.16. No Refund or Transfer
- Section 2.17. Baseline Transferability
- Section 2.18. Capital Facilities Capacity Charge: Annual Updates
- Section 2.19. Affordable Housing Projects

ARTICLE III:

MISCELLANEOUS

- Section 3.01. Application of Ordinance
- Section 3.02. Exceptions
- Section 3.03. Out of Area Sewer Service Agreements

ARTICLE I

RECITAL OF FINDINGS

Section 1.01. Findings. Based on substantial evidence in the record, the Board of Directors hereby finds as follows:

A. OC San operates a system for the collection, treatment, disposal, and reuse of wastewater (“System”). The System protects human health and the environment from the potentially harmful effects of wastewater.

B. OC San regularly constructs, reconstructs, repairs, and/or rehabilitates System facilities through capital improvement projects (“Capital Projects”). OC San recovers the cost of Capital Projects through Capital Facilities Capacity Charges imposed on new users and Supplemental Capital Facilities Capacity Charges imposed on specified existing users. This Ordinance imposes Capital Facilities Capacity Charges and Supplemental Capital Facilities Capacity Charges as recommended in the HDR Report.

C. OC San will use the revenues from Capital Facilities Capacity Charges and the Supplemental Capital Facilities Capacity Charges to fund future Capital Projects and/or repay principal and interest on debt incurred in connection with past Capital Projects. The revenues shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor, and outfall sewers.

D. The Capital Facilities Capacity Charges and Supplemental Capital Facilities Capacity Charges established by this ordinance are based on the information and analysis set forth in the HDR Report and the Master Plan, both of which were made available to the public in accordance with Government Code Section 66016 and other provisions of law.

E. The Capital Facilities Capacity Charges and Supplemental Capital Facilities Capacity Charges established by this ordinance do not exceed the estimated reasonable cost of providing the wastewater collection, treatment, disposal, and reuse services for which the fees are charged. The manner in which the costs are allocated to each payor bears a fair or reasonable relationship to the payor's burdens on, and benefits received from, OC San's System.

F. The Capital Facilities Capacity Charges and Supplemental Capital Facilities Capacity Charges established by this ordinance will retire debt and fund capital projects necessary to maintain service within OC San's existing service area. Therefore, adoption of this Ordinance is statutorily exempt under the California Environmental Quality Act pursuant to the provisions of Public Resources Code Section 21080(b)(8) and California Code of Regulations Section 15273(a).

G. The Capital Facilities Capacity Charges and Supplemental Capital Facilities Capacity Charges established by this ordinance are not imposed as an “incident of property ownership” within the meaning of Article XIID of the California Constitution. Thus, the substantive and procedural requirements of Article XIID do not apply.

H. The Capital Facilities Capacity Charges and Supplemental Capital Facilities Capacity Charges established by this ordinance have been approved by OC San's Board of Directors at a noticed public meeting, all in accordance with applicable provisions of law.

ARTICLE II

CAPITAL FACILITIES CAPACITY CHARGES

Section 2.01. Purpose and Scope. This Ordinance is designed to ensure that each user pays his or her fair share of the costs of Capital Projects, based on the burden that each user places on the System. OC San will use revenues generated by this Ordinance to (i) fund future Capital Projects, and (ii) repay principal and interest on debt incurred in connection with past Capital Projects.

Section 2.02. Definitions.

A. "Actual construction costs" include the cost of all activities necessary or incidental to the construction of OC San facilities, such as financing, planning, designing, acquisition of the property or interests in the property, construction, reconstruction, rehabilitation, and repair.

B. "Capital Facilities Capacity Charge (Capacity Charge)" means a one-time, non-discriminatory charge imposed at the time a building or structure is newly connected to OC San's System, directly or indirectly, or an existing structure or category of use is expanded or increased. Said charge is to pay for OC San facilities in existence at the time the charge is imposed, or to pay for new facilities to be constructed in the future, that are of benefit to the property being charged. This charge does not apply to temporary facilities or operations that are regulated under the provisions of a Special Purpose Discharge Permit. A schedule of the Capital Facilities Capacity Charges specified herein will be on file in the Office of the Clerk of the Board of OC San, and in the Building Department of each City within OC San.

C. "Connection fee" means a fee equal to the cost necessary to physically connect a property to OC San's System, including but not limited to, installation of meters, meter boxes, pipelines, and appurtenances to make the connection and which fee does not exceed the actual cost of labor, materials, and overhead for the installation of those facilities.

D. "Non-discriminatory" means that the Capital Facilities Capacity Charge does not exceed an amount determined on the basis of the same objective criteria and methodology applicable to comparable public or non-public users and is not in excess of the proportionate share of the cost of OC San's facilities of benefit to the person or property being charged, based upon the proportionate share of use of those facilities.

E. "Public agency" means the United States or any of its agencies, the State or any of its agencies, the Regents of the University of California, a county, city,

district, school district, local or regional public authority, or any other political entity, subdivision or public corporation of the State.

F. The Supplemental Capital Facilities Capacity Charge, as provided for in Sections 2.07, 2.08, 2.09, and 2.10 of this Ordinance, is an annual charge payable to OC San on a quarterly or annual basis, as determined by OC San. Said charge is required to be paid by dischargers that exceed the maximum quantity of flow or constituents (BOD or SS) allowed as a base use for which the Capacity Charge is paid.

G. "Accessory Dwelling Unit (ADU)" means an attached or 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.

H. "Junior Accessory Dwelling Unit (JADU)" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

Section 2.03. Connection Permits: Required.

A. Connection permits are required of each and every dwelling unit, and each commercial or industrial building, and structure connecting directly or indirectly to OC San's sewerage system facilities. Included are the connections of laterals to local municipal sewerage facilities, and the connection of local municipal sewerage facilities and laterals to OC San's facilities. Multiple detached structures on a single parcel of property shall each be required to obtain a connection permit.

B. Except as authorized by the issuance of a Special Purpose Discharge Permit under Sections 305 – 305.6 of OC San's Wastewater Discharge Regulations, or as authorized pursuant to a special extra territorial service agreement approved by the Board of Directors, no permit shall be valid unless the real property to be served by use of the permit is included within the boundaries of OC San and within the boundaries of a local sewerage agency authorized to maintain public sewerage facilities. However, a permit, as authorized above, may be issued for property to be served outside the boundaries of a local sewerage agency if a local sewerage agency makes application for the issuance of such permit.

There will be a non-discriminatory Capital Facilities Capacity Charge assessed to public agencies for connecting directly or indirectly to OC San's sewerage system facilities, and a connection permit must be obtained.

Section 2.04. Capital Facilities Capacity Charge: Payment Required. No application for a permit for a connection of a structure to OC San's sewerage facility, or to any sewerage facility which discharges into OC San sewerage facility, shall be approved, nor a permit issued, until OC San's Capital Facilities Capacity Charge is paid by the applicant, except as provided for discharges under a Special Purpose Discharge Permit. No connection permit shall be issued unless there is an established category of use of the

property to be served or a valid building permit issued which establishes the category of use of said property.

Section 2.05. Capital Facilities Capacity Charge: Time of Payment.

A. Payment of the Capital Facilities Capacity Charge established by this Ordinance for connection to OC San’s sewerage system facilities shall be required at the time of issuance of the building permit for all construction within OC San, except in the case of a building legally exempt from the requirement of obtaining a permit. The payment of the Capital Facilities Capacity Charge for such exempt buildings will be required at the time of and prior to the issuing of a plumbing connection permit for any construction within the territorial limits of OC San, or if none, prior to the issuance of a Certificate of Occupancy.

B. Upon application of any property owner seeking to connect to the District’s sewerage system, the General Manager or his designee, upon a finding of compelling need, may, pursuant to the authority of California Health & Safety Code Section 5474, approve of an agreement with the property owner for the payment of the applicable connection charge and/or annexation fees in installment payments over a period of not to exceed five (5) years, bearing an interest rate on the unpaid balance of not to exceed ten (10%) percent per annum and that the charges and interest shall constitute a lien on the property.

Section 2.06. Capital Facilities Capacity Charge and Plan Check and Inspection Fees: Schedule of Amounts.

A. Every person or entity connecting any new or expanded building or structure to OC San’s system facilities shall pay a Capital Facilities Capacity Charge in the amount for the applicable category of use set forth on Table A & B, below.

B. Every person or entity connecting any new or expanded building or structure directly to OC San’s local or regional system facilities shall pay Plan Check and Inspection Fees in the amount set forth in Table C, below.

TABLE A

CAPITAL FACILITIES CAPACITY CHARGES (CFCC)

NON-RESIDENTIAL, RESIDENTIAL ACCESSORY STRUCTURES, AND ACCESSORY DWELLING UNITS

<u>Use Category</u>	<u>Rate Basis</u>	<u>Base Charge</u>
Low Demand ²	Per 1,000 square feet ¹	\$ 242.00 ¹
Average Demand ^{4,5}	Per 1,000 square feet	\$ 1485.00 ¹
High Demand ³	Per 1,000 square feet	\$ 3521.00 ¹

¹Provided that the minimum Capital Facilities Capacity Charge for such new construction shall be \$5719; and all calculations shall be on a 1,000 square foot, or portion thereof, basis.

²Low Demand connections are the following categories of users: Nurseries; Warehouses; Churches; Truck Terminals; RV Parks; RV Storage Yards; Lumber/Construction Yards; Public Storage Buildings; and other facilities whose wastewater discharge is similar to these listed categories.

³High Demand connections are the following categories of users: Food/Beverage Service Establishments; Supermarkets (with bakery, meat counter, and/or food service); Car Washes; Coin Laundries; Amusement Parks; Shopping Centers with one or more Food/Beverage Service Establishments; Food Courts; Food Processing Facilities; Textile Manufacturers; Breweries; and other facilities whose wastewater discharge is similar to these listed categories.

⁴All other connections are Average Demand users including: Church Offices and Schools; Hotels, Shopping Centers/Strip Malls without food/beverage service establishments, Music Halls without food facilities, Office buildings, Senior Housing with individual living units without kitchens but with a common kitchen

⁵ Residential Accessory Structures such as workshops and hobby shops that connect to the sewer, will be charged at the average demand rate and the minimum charge does not apply.

⁶ Accessory Dwelling Units will be charged at the average demand rate and the minimum charge does not apply.

TABLE B

CAPITAL FACILITIES CAPACITY CHARGES (CFCC) RESIDENTIAL (PER UNIT) *

Single Family Residential (SFR) ¹	<u>Base Charge</u>
5+ Bedrooms	\$ 7,949.00
4 Bedrooms	\$ 6,806.00
3 Bedrooms	\$ 5,719.00
2 Bedrooms	\$ 4,633.00
1 Bedroom	\$ 3,545.00
Multi-Family Residential (MFR) ²	<u>Base Charge</u>
4+ Bedrooms	\$ 6,177.00
3 Bedrooms	\$ 5,090.00
2 Bedrooms	\$ 4,004.00
1 Bedroom	\$ 2,859.00
Studio ³	\$ 1,829.00

*The Base Rate for Residential CFCC is the 3 Bedroom SFR with all others having a rate that is a percentage of the base rate depending on the size of the unit.

¹ Bedroom additions are considered a change of use and a CFCC must be paid. Enclosed loft additions, bonus rooms, offices, workout rooms, media rooms, libraries and any other enclosed addition which could potentially be used as a bedroom are included in this category. The classification of these additions will be reviewed and determined by staff.

² MFR units consist of multiple attached units that are not sold individually and receive one secured property tax bill such as apartments. Multiple attached units that are not sold individually and are senior housing with individual living units that include a kitchen are considered MFR units.

³ Studio – one single room with no separating doors or openings leading to another part of the room (except for a bathroom).

Live/Work units will be charged at the residential rate for the living quarters and at the non-residential rate for the work portion square footage.

TABLE C

PLAN CHECK AND INSPECTION FEE TABLE

INSPECTION FEES FOR SINGLE CONNECTIONS

Lateral installation to property line:

<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>
\$950.00	\$980.00	\$1,010.00	\$1,040.00	\$1,070.00

Lateral Installation to with optional cleanout to existing manhole:

<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>
\$1,250.00	\$1,290.00	\$1,330.00	\$1,370.00	\$1,410.00

Core drilling into existing manhole base – add:

<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>
\$1630.00	\$1,680.00	\$1,730.00	\$1,780.00	\$1,835.00

Installation of new manhole over existing sewer:

<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>
\$2,065.00	\$2,125.00	\$2,190.00	\$2,255.00	\$2,325.00

Gas Flap Installation – add:

<u>2023-24</u>	<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>2027-28</u>
\$510.00	\$525.00	\$540.00	\$555.00	\$570.00

INSPECTION FEES FOR MULTIPLE CONNECTIONS

Plan check and inspection fees of 20 percent of the sewer construction cost for new tract sewers, sewer extensions or special facilities are required when plans are submitted for plan check.

If additional funds are needed, they must be deposited as soon as they are requested to complete the inspection on the project. If funds are required after the work is completed, they must be paid before OC San finalizes the sewer project.

Section 2.07. Supplemental Capital Facilities Capacity Charge: Significant Commercial – Industrial Users and Significant Special Purpose Dischargers – Definitions.

A. A Significant Commercial – Industrial User (“SCIU”) is any person or entity who discharges commercial or industrial process flow, but excluding domestic sewage flow, in an amount greater than 25,000 gallons per day (“gpd”), or Biochemical Oxygen Demand (“BOD”) greater than 150 pounds per day, or Suspended Solids (“SS”) greater than 150 pounds per day, or who is required to obtain a Waste Discharge Permit, as prescribed by Article 3 of OC San’s Wastewater Regulations, due to having federally or OC San regulated or significant discharges.

B. A Significant Special Purpose Discharger (“SSPD”) is any person or entity who discharges to the sewer system wastewater or process flow in an amount greater than 25,000 gpd (excluding domestic, industrial or commercial) and who is required to obtain a Special Purpose Discharge Permit as prescribed in Section 305 of OC San’s Wastewater Regulations. A Special Purpose Discharger (SPD) discharges 25,000 gpd or less.

C. An Existing SCIU or SSPD is any SCIU or SSPD connected and discharging to OC San’s system prior to January 1, 2000.

D. A New SCIU or SSPD is any user who connects and discharges to OC San’s System pursuant to a Waste Discharge Permit issued on or after January 1, 2000; or if previously connected and not an SCIU, as defined in Subparagraphs 2.07A and B above, but, subsequent to January 1, 2000, increases flow, or BOD, or SS to a level as to constitute an SCIU or SSPD.

E. The maximum discharge allowed to a user, for which a base Capital Facilities Capacity Charge is paid, as per Table A, above, is 25,000 gallons per day (“gpd”), or 150 pounds per day each of BOD and SS (the “base use”). Discharge of flow, or BOD, or SS in amounts greater than allowed by this Subsection 2.07E shall be subject to the provisions of Sections 2.08 and 2.09 hereof.

F. Each Existing SCIU shall have a baseline of allowed discharge of flow, and BOD, and SS established by the OC San as of January 1, 2000. The baseline shall be based upon the discharge for Fiscal Year 1998-99, or upon such other discharge data which OC San determines is representative of the user's actual annual discharge to the sewerage system. Dischargers who are deemed to be SCIU's solely because of the requirements to obtain a Waste Discharge Permit, pursuant to Section 2.07A above, shall have a minimum baseline established as follows: Flow – 25,000 gallons per day; BOD – 150 pounds per day; and SS – 150 pounds per day. The SCIU shall be authorized to discharge flow, and BOD, and SS up to the baseline amounts without payment of a Supplemental Capital Facilities Capacity Charge.

G. Each Existing SPD shall have a baseline of 25,000 gpd. The Existing SPD shall be authorized to discharge flow up to 25,000 gpd without payment of a Supplemental Capital Facilities Capacity Charge.

H. The Supplemental Capital Facilities Capacity Charge, as prescribed by Sections 2.08, 2.09, and 2.10 below, shall be payable commencing with the effective date of this Ordinance.

Section 2.08. Supplemental Capital Facilities Capacity Charge: New Significant Commercial – Industrial Users. In addition to the base Capital Facilities Capacity Charge, as prescribed in Table A, for commercial – industrial use category properties, all New SCIU's shall pay a Supplemental Capital Facilities Capacity Charge for each gallon of flow, or pound of BOD, or SS, exceeding the base use discharge maximums, in the amount shown in Table D.

Section 2.09. Supplemental Capital Facilities Capacity Charge: Significant Special Purpose Dischargers. All SSPDs shall pay a Supplemental Capital Facilities Capacity Charge of \$.002140 per gallon per day for each gallon of flow exceeding 25,000 gallons per day.

Section 2.10. Supplemental Capital Facilities Capacity Charge: Existing Significant Commercial – Industrial Users and Special Purpose Dischargers.

A. All Existing Significant Commercial – Industrial Users connected to and discharging to OC San's System shall be required to pay a Supplemental Capital Facilities Capacity Charge upon the occurrence of either (i) an increase of discharge flow of 25,000 gallons per day ("gpd"), or 25% per day over its established baseline authorization, whichever is lesser; or (ii) an increase of either BOD or SS discharge of 150 pounds each per day, or 25% each per day, whichever is lesser, over its established baseline authorization. The daily averages will be based on the daily discharges for a year, utilizing discharge records and reports of the discharger or OC San.

B. The Supplemental Capital Facilities Capacity Charge shall be in the following amounts for each component that is increased as provided in Section 2.10A above.

TABLE D

SUPPLEMENTAL CAPITAL FACILITIES CAPACITY CHARGES

Daily Charge

	2023-24
FLOW	\$0.002140
BOD	\$0.50063
SS	\$0.30364

FLOW – Gallons Per Day
BOD – Pounds Per Day
SS – Pounds Per Day

C. All Existing SPDs connected and discharging to the sewer shall be required to pay a Supplemental Capital Facilities Capacity Charge upon occurrence of an increase of discharge flow over 25,000 gpd. The Supplemental Capital Facilities Capacity Charge shall be \$ 0.002140 per gallon per day of discharge for each gallon above 25,000 gpd.

D. The Supplemental Capital Facilities Capacity Charge shall be calculated on the basis of the average daily quantity of discharge in excess of the User's baseline or 25,000 gpd for SPDs. The daily averages will be based on the daily discharges for a year, utilizing discharge records and reports of OC San.

Section 2.11. Capital Facilities Capacity Charge: Replacement Structures. For new construction replacing former structures, the Capital Facilities Capacity Charge shall be calculated and paid to OC San on the rate basis of the category of the new use and the amounts as set forth in Tables A and B, less a credit amount, up to the amount of the new Capital Facilities Capacity Charge, equal to a charge, as prescribed in Tables A and B that would be for the prior category of use which was terminated and removed.

Section 2.12. Capital Facilities Capacity Charge: Remodeled Structures. In the case of existing structures connected to OC San's system facilities, to which new construction or alteration is made to change or increase the category of use or number of bedrooms, a Capital Facilities Capacity Charge shall be calculated and paid to OC San on the rate basis of the category of the new use and the amounts as set forth in Tables A and B, less a credit amount, up to the amount of the new Capital Facilities Capacity Charge, equal to a charge, as prescribed in Tables A and B for the prior category of use.

Section 2.13. Accessory Dwelling Units. Notwithstanding Section 2.12, pursuant to Government Code Section 65852.2, OC San shall not collect Capital Facilities Capacity Charges from any ADU if all the following conditions are met:

- (a) the ADU is attached to a single-family residence or accessory structure;

- (b) the ADU is built after the single-family residence;
- (c) the ADU's side and rear setbacks are sufficient for fire safety;
- (d) the ADU has independent exterior access from the existing single-family residence;
- (e) the ADU does not expand the single-family residence;
- (f) the ADU does not expand an accessory structure by more than 150 square feet and that expansion is only used to accommodate ingress and egress and;
- (g) there are no other ADUs on the property.

Section 2.14. Junior Accessory Dwelling Units. Notwithstanding Section 2.12, pursuant to Government Code Section 65852.2, OC San shall not collect Capital Facilities Capacity Charges from a JADU integrated into an existing single-family residence if a local agency approved the JADU pursuant to Government Code Section 65852.22 and a local ordinance.

Section 2.15. Payment of Capital Facilities Capacity Charge: Off-Site Sewers Not Part of Master Plan Relative to Reimbursement Agreements. A charge for connection to off-site sewers which are not included as part of OC San Master Plan and for which a Non-Master Plan Reimbursement Agreement has been entered into between OC San and the property owner, shall be paid in the amount provided for in said Agreement, to be known as a Non-Master Plan Capital Facilities Capacity Charge. The amount set forth in said Agreement shall be the amount due, provided the original Agreement is still in force. The Non-Master Plan Capital Facilities Capacity Charge shall be in addition to the other Capital Facilities Capacity Charges provided for in Sections 2.06 through 2.10 hereinabove, established for property connecting to said facilities.

Section 2.16. No Refund or Transfer. A Capital Facilities Capacity Charge is paid for the connection of a specific building or structure on a parcel of property. No refund of any charge shall be made because of non-use or change of use, or any other reason once the connection has been made. If the connection is not made and the request for connection is withdrawn within 12 months of the payment date, the charges paid will be refunded upon establishing proof from the City or County of a canceled permit. The connection permit is non-transferable to any other parcel of property.

Section 2.17. Baseline Transferability. The baseline of allowed discharge of flow, BOD and SS used to calculate a Supplemental Capital Facilities Capacity Charge shall not be transferable to a different property, nor shall a credit for such previously existing baseline be provided to another SCIU concurrently or subsequently occupying the same property for a different use. Each such SCIU shall pay Supplemental Capital Facilities Capacity Charges in accordance with Section 2.08 above.

Section 2.18. Capital Facilities Capacity Charge Annual Updates. The Capital Facilities Capacity Charge is based upon the most recently completed Facilities Master Plan. The residential, non-residential, and supplemental capital facilities capacity charge will be updated annually based upon the increase in the Engineering News-Record construction cost index for Los Angeles as of December of the prior year until the completion of the next Rate Study.

Section 2.19. Affordable Housing Projects. Per Resolution OCSD 11-02, development projects that include lower income housing units shall not be denied approval of an application for service, nor shall conditions be imposed thereon, or services reduced which are applied for, unless OC San makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:

- (a) insufficient water supply or insufficient water treatment or distribution capacity;
- (b) a State Department of Health Services order prohibiting new water connections;
- (c) insufficient sewer treatment or collection capacity;
- (d) a Regional Water Quality Control Board order prohibiting new sewer connections;
- (e) the applicant has failed to agree to reasonable terms and conditions

ARTICLE III

MISCELLANEOUS

Section 3:01. Application of Ordinance. The provisions of this Ordinance shall be in addition to the provisions of OC San's Wastewater Discharge Regulations for use of OC San's sewage facilities, including provisions for payment of charges or fees related thereto; OC San's ordinance establishing Fees Concerning Annexations of Territory to OC San; and any other OC San Ordinances and Resolutions not in conflict herewith.

Section 3:02. Exceptions. The provisions of this Ordinance shall apply to all owners of properties within OC San, including those properties otherwise deemed exempt from payment of taxes or assessments by provisions of the State Constitution or statute, including properties owned by other public agencies or tax-exempt organizations, except as expressly provided herein.

Section 3:03 Out of Area Sewer Service Agreements. OC San is empowered to contract for the transport, treatment and disposal of wastewaters originating within areas outside of OC San if it is in the best interest of OC San to do so. These Out of Area Sewer Service Agreements will establish fees and charges relative to the services provided by OC San for each individual agreement.

The Board of Directors of the Orange County Sanitation District does further hereby ORDAIN:

SECTION II. Severability. If any provision of this Ordinance, or the application to any person or circumstances is held invalid by order of Court, the remainder of the Ordinance, or the application of such provision to other persons or other circumstances, shall not be affected.

SECTION III. Effective Date. This Ordinance shall take effect July 1, 2023.

SECTION IV. Repeal. Ordinance No. OCSD-57 is hereby repealed.

SECTION V. Certification and Publication. The Clerk of the Board shall certify to the adoption of this Ordinance, and shall cause a summary to be published in a newspaper of general circulation as required by law.

PASSED AND ADOPTED by a vote of not less than two-thirds of the Board of Directors of the Orange County Sanitation District at a Regular Meeting held on March 22, 2023.

Chad P. Wanke
Chairman, Board of Directors
Orange County Sanitation District

ATTEST:

Kelly A. Lore, MMC
Clerk of the Board
Orange County Sanitation District

APPROVED AS TO FORM:

Bradley R. Hogin
General Counsel
Orange County Sanitation District

STATE OF CALIFORNIA)
)SS.
COUNTY OF ORANGE)

I, Kelly A. Lore, Clerk of the Board of Directors of Orange County Sanitation District, do hereby certify that the above and foregoing Ordinance No. OC SAN-59 was introduced for first reading at a regular meeting of said Board on the 22nd day of February 2023, and passed and adopted by a vote of not less than two-thirds at a regular meeting of said Board on the 22nd day of March 2023, by the following vote, to wit:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of Orange County Sanitation District this 22nd day of March 2023.

Kelly A. Lore, MMC
Clerk of the Board
Orange County Sanitation District