

FAIRFIELD-SUISUN SEWER DISTRICT
RESOLUTION NO. 2022-05

A RESOLUTION ADOPTING SEWER SERVICE CHARGES AND CAPACITY FEES

WHEREAS, the Fairfield-Suisun Sewer District (“District”) is authorized by the Fairfield-Suisun Sewer District Act to provide wastewater services to the cities of Fairfield and Suisun City, as well as buildings outside of the District as determined by a contract with the County of Solano and to levy charges to pay for that service; and,

WHEREAS; any increase in fees and charges for property-related wastewater service must comply with the procedural and substantive requirements of Article XIID, section 6, of the California Constitution, which was enacted by the California Voters in 1996 as part of Proposition 218; and,

WHEREAS; on January 31, 2022, the Board authorized staff to provide notice of a proposed fee increase to support increased capital spending and operating costs and the date, time and location of a public hearing on the proposal, all in compliance with the substantive and procedural requirements of Proposition 218 and other relevant laws; and,

WHEREAS; in compliance with the substantive and procedural requirements of Proposition 218 and other relevant laws, staff mailed a Notice to Property Owners of Proposed Wastewater Rate Increase and Public Hearing (“Notice”) to each property owner in the District’s service area of the proposed fee increase, which notice contained the date, time and place of the public meeting; a general explanation of the matter to be considered; the amount of the fee proposed to be imposed upon each parcel, the basis upon which the amount of the proposed fee was calculated, and the reason for the fee; and stated that a detailed fee analysis concerning the proposed fee increases, including the cost or estimated cost of providing the service for which each fee is proposed to be charged, the revenue sources anticipated to provide the service, and the basis of the allocation of the cost of the services, was available for review at www.fssd.com; and,

WHEREAS; on March 28, 2022 the Board conducted a noticed public hearing to consider the proposed fee increase at the time and place specified in the Notice; and,

WHEREAS, at the hearing, this Board reviewed and considered the proposed fee increase, all supporting information, including but not limited to the data described above, any protests against the proposal, any other information in support of or in opposition to the proposal, and all other relevant information presented as prescribed by law; and,

WHEREAS, at that time, an opportunity was given to all interested persons, organizations and agencies to present oral or written testimony and other information concerning the proposed fees and all related matters; and,

WHEREAS, the Board has calculated the protests submitted and not withdrawn to the increased fee and finds that a majority protest does not exist; and

WHEREAS, the increase is necessary for the public health and safety and that the fee increase be effective July 1, 2022; and

WHEREAS, pursuant to Government Code Section 66013, the District is authorized to impose fees for sewer connections and to impose capacity charges for public facilities in existence at the time the charge is imposed and for new facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged; and,

WHEREAS, the District's wastewater capacity fees ("capacity fees") are imposed on any property or any person requesting a new, additional, or larger connection to the District's wastewater system; and,

WHEREAS, an analysis of the District's capacity fees was prepared by Hildebrand Consulting, LLC dated March 22, 2022, entitled "2022 Sewer Rate and Capacity Charge Study Final Report" (the "Report"), a copy of which is on file with the District Administrative Services Department and incorporated into this Resolution by this reference as if set forth in full; and,

WHEREAS, on January 31, 2022, the District's Board approved and adopted the Report; and,

WHEREAS, the Report establishes that the amount of the proposed capacity fees are no more than necessary to cover the reasonable costs of the services for which the fees are charged, and that the manner in which those costs are allocated to a capacity fee payor bear a fair or reasonable relationships to the payor's burden on, or benefits received from, the District's services; and,

WHEREAS, the District desires to implement capacity fees that will keep pace with the annual rate of inflation while reducing the administrative burden of annual modification; and,

WHEREAS, pursuant to Government Code section 66016(a), the District held a public hearing at its regularly scheduled March 28, 2022 meeting to consider adoption of the proposed capacity fees; and

WHEREAS, pursuant to Government Code section 66016(a), the District made available to the public all data indicating the cost, or estimated cost, to provide the service for which these capacity fees will be levied, and the revenue sources anticipated to provide the service, for at least 10 days before its regularly scheduled March 28, 2022 meeting; and

WHEREAS, the District finds it necessary and appropriate to adopt the proposed capacity fees for the District; and

WHEREAS, the proposed capacity fees are not "taxes" as defined in Section I, paragraph (e) of Article XIII C of the California Constitution (commonly referred to as "Proposition 26") because the proposed capacity fees are imposed for a specific service provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the District of conferring the benefit; and/or the fee is imposed for a specific government service provided directly to the payor that is not provided

to those not charged, and which does not exceed the reasonable cost to the District of providing the service; and,

WHEREAS, the California Environmental Quality Act (CEQA), Section 15273, Rates, Tolls, Fares, and Charges, states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (i) meeting operating expenses, including employee wage rates and fringe benefits; (ii) purchasing or leasing supplies, equipment, or materials; (iii) meeting financial reserve needs and requirements; (iv) obtaining funds for capital projects, necessary to maintain service within existing service areas; or (v) obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter; and .

WHEREAS, the proposed capacity fees are for the first four of these purposes and, therefore, this adoption of this Resolution is categorically exempt from CEQA.

WHEREAS, the Board of Directors finds, based on all evidence in the record, that the proposed capacity fees, as described below, do not exceed the estimated reasonable cost of providing the service.

NOW THEREFORE BE IT RESOLVED, ORDERED AND FOUND by the Board of Directors of the Fairfield-Suisun Sewer District as follows:

1. Each of the foregoing recitals is true and correct.
2. There are 35,885 parcels subject to the proposed wastewater service fee increase; the protest is therefore not sufficient to constitute a majority protest.
3. The Notice, attached to this resolution as Exhibit "A", is incorporated into this resolution by this reference.
4. Based upon the foregoing, this Board is authorized to collect increased fees for wastewater service on parcels within the District's service area on an ongoing basis, year by year, as is stated in the Notice. Sewer service charges shall be increased by the set rate structure shown in the Notice per year starting in fiscal year 2022-2023.
5. This Board further finds that each of the following is true and correct:
 - a. Each fee imposed herein is a levy other than an ad valorem tax, a special tax or an assessment, and is imposed upon a parcel or a person as an incident of property ownership consisting of a user fee for wastewater service.
 - b. This wastewater service fee is for property related services, having a direct relation to property ownership.
 - c. Revenues derived from the fee imposed herein will not exceed the funds required to provide property related wastewater service in the cities of Fairfield and Suisun City.

- d. The revenues derived from the fee will not be used for any other purpose other than that for which the fee is imposed.
 - e. The fee imposed herein does not exceed the proportional cost of service attributable to each parcel.
 - f. No fee is imposed unless wastewater service is actually used by, or immediately available to, the owner of the property in question. No fee is imposed on the basis of a mere potential of future use of either service.
 - g. No fee is imposed for any general governmental service or any service where the service is available to the public at large in substantially the same manner as it is to property owners.
6. This Board further finds that each parcel within the service area of the Fairfield-Suisun Sewer District for which wastewater services are available and that each such parcel is a parcel of real property receiving said services in the District.

NOW THEREFORE BE IT FURTHER RESOLVED, ORDERED AND FOUND THAT based on the entirety of the record before it, which includes without limitation, the Report, all reports, minutes and public testimony submitted as part of March 28, 2022 meeting of the Board of Directors of the Fairfield-Suisun Sewer District finds as follows:

1. The capacity fees as set forth below are hereby approved and adopted:


Capacity Fees: \$6,883 per Equivalent Dwelling Unit

2. The capacity fees shall increase annually by no more than the Engineering News Record (ENR) Construction Cost Index (CCI) for San Francisco based on the change from April for the second prior calendar year to April for the prior calendar year, commencing on July 1, 2023,
3. The capacity fees set forth above shall become effective on July 1, 2022 and shall remain in effect until changed by the Board of Directors.
4. All other rates, charges, fees, penalties, etc. not provided for in this Resolution that are currently charged in connection with operation of the District shall be unaffected by this Resolution and shall remain in effect.
5. The Board of Directors of the Fairfield-Suisun Sewer District finds that the change in the capacity fees set forth above is statutorily exempt from the California Environmental Quality Act under section 15273 of the State CEQA Guidelines.
6. Each component of the wastewater service fee, the sewer capacity fees and all portions of this Resolution are severable. Should any individual component of the wastewater service fee, the sewer capacity fees, or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent

jurisdiction, then the remaining wastewater service fee and sewer capacity fees components and/or Resolution portions shall be and continue in full force and effect, except as to those components and/or Resolution portions that have been adjudged invalid. The Board of Directors declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase, and other portion thereof, irrespective of the fact that one or more section, subsection, clause, sentence, phrase, or other portion may be held invalid or unconstitutional.

7. The General Manager is authorized and directed to take all steps necessary and proper to implement this Resolution.

PASSED AND ADOPTED this 28th day of March 2022, by the following vote:

		Day-Hernandez-Hudson-Panduro-Price
		Timm-Tonnesen-Vaccaro- Williams -Wilson
AYES:	Directors	_____
NOES:	Directors	_____ None _____
ABSTAIN:	Directors	_____ None _____
ABSENT:	Directors	_____ Williams _____
		_____  _____
		President

ATTEST: 
District Clerk

Exhibit A – Notice of Proposed Rate Increase for Sewer Service Charges

WHAT DO SEWER RATES FUND?

The District provides wastewater collection, treatment, and disposal services to the cities of Fairfield and Suisun City. The District manages a wastewater treatment plant that processes approximately 15 million gallons per day; 13 wastewater pump stations; and 70 miles of sewer pipes and other related facilities.

The District adopts a five-year rate schedule, annually adjusting sewer rates to reflect the impact of changes in the cost of providing service. The last such five-year schedule was adopted in 2017.

As the result of a Cost of Service and Rate Study completed by an independent consultant, the District is proposing a new five-year rate schedule in order to continue to support the District’s ongoing operations, increased regulatory requirements, and capital requirements for critical infrastructure.

PROPOSED NEW SEWER RATES

The proposed new sewer rates are developed through a rate study process. The rate study utilized the District’s 10-year financial plan and analyzes the cost of service to determine revenue requirements. The revenue requirements are proportioned between different customer classes based on their impacts to the system.

The rate study recommends general rate revenue increases and cost-of-service updates. The proposed five-year rate schedule being considered by the District for adoption is shown in Table 1.

Additional information on the proposed rate schedule is available in the 2022 Sewer Rate and Capacity Charge Study, prepared by Hildebrand Consulting, LLC., (2022 Sewer Rate Study). The report is available online at www.fssd.com.

www.fssd.com

IMPORTANT INFORMATION
CONCERNING PROPOSED CHANGES TO
WASTEWATER RATES



FAIRFIELD-SUISUN SEWER DISTRICT
1010 CHADBOURNE ROAD, FAIRFIELD, CA 94534



NOTICE OF PUBLIC HEARING ON PROPOSED INCREASED SEWER RATES

Monday, March 28, 2022 | 6:00 p.m.
or soon thereafter as the matter is reached on the agenda

WHERE: District Board Room
1010 Chadbourne Rd, Fairfield, CA 94534

TO PARTICIPATE: Due to the coronavirus pandemic, it is unknown at the time of this mailing if the Board of Directors meeting will be held in person or via videoconference. You can find out here (<https://www.fssd.com/board-meetings-agenda/>) after March 25, 2022.

NOTICE IS HEREBY GIVEN that Fairfield-Suisun Sewer District is considering adopting a new five-year schedule of sewer rates pursuant to Article XIII.D, section 6 of the California Constitution (also known as Proposition 218). At the public hearing, the Board of Directors will accept oral and written testimony, as well as written protests, regarding the sewer rates.



WHY AM I RECEIVING THIS NOTICE?

You are receiving this notice because our records indicate that you are listed as an account holder and/or as the owner of a parcel receiving sewer service from the Fairfield-Suisun Sewer District (District). The purpose of this notice is to give you information about proposed new/increased sewer rates and how you can participate in the rate-setting process.

RATE CALCULATION METHODOLOGY

Rate revenue is derived from various customer classes that require different service demands to treat wastewater. The proposed structure for the Sewer Service Charges is consistent with common industry practice, and is designed to recover the cost of providing sewer services to the different customer classes.

- Residential customers pay a flat amount based on the number of dwelling units. Residential customers pay a fixed monthly account charge that is included within the per-dwelling rate.
- Most commercial / industrial customers are charged a volumetric rate based on water usage (measured in hundred cubic feet) as well as a monthly fixed account charge. Commercial and industrial customers are split into regular strength or high strength depending on wastewater discharge.
- Case-by-case customers are industrial / commercial customers with high flows, heavily concentrated discharges to the sewer system, or special requirements for discharges. Case-by-case customers are billed based on a combination of monthly discharges (measured in million gallons) as well as the “sewer strength” needed to treat the discharges. Sewer strength is measured by biochemical oxygen demand (BOD) and total suspended solids (TSS).

HOW DO I PROTEST?

Proposition 218 allows the owner of record or a tenant receiving sewer service on the parcel to submit a written protest at or before the close of the March 28, 2022 public hearing. If the person signing the protest is an owner of the parcel but is not listed as the owner on the last equalized assessment roll for Solano County, the protest must be accompanied by written evidence that the signer currently owns the property. In rental situations, if a tenant is the utility account holder for sewer service, the tenant also has the right to submit a written protest for the property. Only one protest per parcel will be counted. If valid protests are filed on behalf of a majority of the parcels that receive sewer service, the increased Sewer Service Charges will not be adopted.

TABLE 1 - PROPOSED 5-YEAR SEWER RATE SCHEDULE

Effective Date:	July 1, 2022	July 1, 2023	July 1, 2024	July 1, 2025	July 1, 2026	
Residential (monthly) ¹	\$45.02	\$47.27	\$49.63	\$51.62	\$53.68	per dwelling unit
Commercial						
Monthly Account Charge and	\$11.97	\$12.57	\$13.20	\$13.73	\$14.28	per account per mo.
Regular Strength Volumetric ² or	\$3.60	\$3.78	\$3.97	\$4.13	\$4.30	per hundred cubic feet (HCF)
High Strength Volumetric ³	\$6.23	\$6.54	\$6.87	\$7.14	\$7.43	per HCF
Case-by-Case ⁴						
Monthly Account Charge and	\$11.97	\$12.57	\$13.20	\$13.73	\$14.28	per account per mo.
Volumetric (direct connect) ⁵ or	\$2,994.65	\$3,144.39	\$3,301.61	\$3,433.67	\$3,571.02	per MG
Volumetric (through local collection) and	\$4,398.40	\$4,618.32	\$4,849.24	\$5,043.21	\$5,244.94	per MG
BOD (by weight) and	\$503.54	\$528.72	\$555.16	\$577.37	\$600.46	per 1000lbs
TSS (by weight)	\$255.55	\$268.33	\$281.75	\$293.02	\$304.74	per 1000lbs
Travis Air Force Base (volumetric)	\$2.90	\$3.05	\$3.20	\$3.33	\$3.46	per HCF

¹ Single-family dwelling, multiple-family dwelling, trailer courts, and mobile home parks

² Offices, retail, stores, hotels, motels, schools, churches, hospitals, nursing homes, laundromats, dry cleaning, establishments, bars without dining facilities, car washes without auto steam cleaning facilities, other commercial or industrial customers not treated high strength or as case-by-case.

³ Commercial laundries, restaurants and bars with dining facilities, service stations with holding tank dumping facilities, car washes with auto steam cleaning facilities, bakeries and food processing, other commercial or industrial customers with concentrations greater than 200 milligrams per liter biochemical oxygen demand (BOD) or 265 milligrams per liter total suspended solids (TSS), but less than the concentrations specified for case-by-case.

⁴ All commercial or industrial customers other than those specified as regular or high strength with flows greater than 0.005 million gallons per day (MGD), or with concentrations greater than 65 mg/l BOD or 1,000 mg/l TSS; all intermittent customers; and any commercial or industrial customer requesting and paying the full cost of metering and testing.

⁵ For customers that deliver wastewater directly to collection system pipes of 12" or greater.

ALL PROTESTS MUST:

1. Be in writing with an original signature from the property owner of record or tenant directly liable for the payment of the fee/account holder.
2. Identify the parcel for which the protest is filed, by street address or Assessor's Parcel Number (APN).
3. State that the signer opposes the proposed sewer rates.
4. Be received by the District at or before the close of the public hearing that will begin at 6:00 p.m. on March 28, 2022. A protest may be mailed to the Director of Administrative Services at 1010 Chadbourne Road, Fairfield, California 94534.

Email, fax, or telephone, and oral protests of any kind will not be counted. Mailed protests received after the close of the public hearing will not be counted, even if they were postmarked earlier. Be advised that pursuant to Government Code Section 53759(d) there is a 120-day statute of limitation for any challenge to the new, increased or extended fee or charge.

QUESTIONS?

For more information or to ask questions, please call (707) 429-8930 Monday through Thursday from 8:00 A.M. to 5:00 P.M. or visit www.fssd.com.