

Ordinance No. 72

AN ORDINANCE AMENDING ORDINANCE NO. 25, REPEALING THE CONNECTION, TRUNKLINE, AND PLANT CAPACITY FEES, AND ADOPTING A NEW CONSOLIDATED CAPACITY FEE

WHEREAS, at its meeting on July 21, 2020, after giving all required notices pursuant to Government Code section 66013 and 66016, the Board of Directors (the “Board”) of Ironhouse Sanitary District, a California Sanitary District (the “District”) held a public hearing as part of a regularly scheduled meeting to consider adjustments in the District’s connection, trunkline fee and plant capacity fee.

WHEREAS, at the public hearing on July 21, 2020 the Board considered all testimony presented in accordance with Government Code section 66013 and 66016.

WHEREAS, the District has worked with a consultant, NBS, to develop a “Wastewater Rate and Capacity Fee Study,” prepared for the District in July 2020 (“Study”), which developed a new, single capacity fee (“Capacity Fee”).

WHEREAS, the findings and analysis in the Study regarding the recommended Capacity Fee are approved by the Board and incorporated by this reference.

WHEREAS, the Board has reviewed the Capacity Fee schedule set forth in the Study and has determined that there is a reasonable relationship between the Capacity Fee and the District’s estimated reasonable costs of providing sewer capacity service to new development.

WHEREAS, the purpose of the Capacity Fees is to provide revenue to recover costs for existing facilities and facilities to be acquired or constructed in the future that are of proportional benefit to new development.

WHEREAS, the Capacity Fee is a one-time fee for customers connecting to or upsizing their connection to the District’s sewer system.

WHEREAS, the Capacity Fee complies with California law, including, without limitation, Government Code section 66013 and Health and Safety Code sections 5474 *et seq.*, by determining the estimated reasonable costs of providing water capacity facilities and infrastructure that are of proportional benefit to new development.

WHEREAS, Ordinance No. 25, adopted on June 1, 1993, established three connection/capacity fees that new development must pay before it can connect to the District’s sewer system: the connection fee, the trunkline fee, and the plant capacity fee (collectively “Connection Fees”).

WHEREAS, Ordinance No. 25 also set forth the Equivalent Service Units (“ESUs”) for each type of service for the purposes of calculating the Connection Fees.

WHEREAS, the Board recently adopted Ordinance No. 71 Adjusting Sewer Service Fees, which repealed Section 3 of Ordinance No. 25 as it applied to Sewer Service Fees.

WHEREAS, the Board wishes to amend Ordinance No. 25 to repeal the Connection Fees, establish a single Capacity Fee, and provide that the Board will determine the ESUs for each type of service for the purposes of calculating the Capacity Fee.

WHEREAS, Attachment A to this Ordinance shows Ordinance No. 25 as amended by Ordinance Nos. 71 and 72 with the changes in red. Attachment B to this Ordinance is a final copy of Ordinance No. 25 as amended by Ordinance Nos. 71 and 72.

NOW, THEREFORE, BE IT RESOLVED, by the Board that, based on the foregoing facts and circumstances and on the entire administrative record, the Board hereby finds and determines as follows:

1. The above recitals are true and correct, are material to the adoption of this ordinance, and are incorporated herein by reference.

2. The proposed Capacity Fee will enable the District to meet its existing obligations within its existing service area and is not for the purpose of expanding the District's service area or for the purpose of expanding its services within its existing service area to any extent which has not already been analyzed in the District's existing Wastewater Facilities Plan Update and Sewer Master Plan and in the Final Supplemental EIR on the Wastewater Facilities Plant Expansion certified on January 16, 2007. The proposed adjustments are for meeting financial reserve needs and requirements, and to obtain funds for the capital projects necessary for the District to maintain its service within its existing service area. The proposed adjustments are accordingly statutorily exempt from the California Environmental Quality Act ("CEQA"), as provided in Section 15273 of the State CEQA Guidelines. In any case, it can be seen with certainty that there is no possibility that the Capacity Fee may have a significant effect on the environment and they are therefore exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

FURTHER RESOLVED, by the Board that based on the foregoing facts, circumstances and findings, and on the entire administrative record, the Board hereby ordains as follows:

1. The Connection Fees, including the Connection Fee, the Trunkline Fee, and the Plant Capacity Fee, established by Ordinance No. 25, are hereby repealed and consolidated into one Capacity Fee.

2. Ordinance No. 25, as amended by Ordinance Nos. 71 and 72, depicted in Attachment B, is hereby adopted.

3. The Capacity Fee reflected in the Study is hereby adopted as the District's new Capacity Fee for all parcels within the District and this Capacity Fee shall replace the existing Connection Fees and be used for the same purposes as the existing Connection Fees.

4. The Capacity Fee shall be used to provide revenue to recover costs for existing facilities and facilities to be acquired or constructed in the future that are of proportional benefit to new development

5. For residential connections, the Capacity Fee shall be charged at a rate of \$7,986 per Single Family dwelling unit, \$3,000 for each Multiple Dwelling Unit, and \$4,523 per Mobile Home.

6. For non-residential connections, the Capacity Fee shall be determined by multiplying the fee per ESU by the number of ESUs assigned to the new connection. The Capacity Fee per ESU for non-residential units is \$7,986, which is equal to the fee per Single Family Dwelling Unit. The District Engineer shall determine the number of ESUs to be assigned to a new non-residential connection based upon the development's expected wastewater flow and strength of effluent. Strength determinations shall be based on the Revenue Program Guidelines of the State Water Resources Control Board, March 1998 Edition.

7. For Accessory Dwelling Units, the Capacity Fee shall be \$3.96 per square foot, in accordance with Government Code section 65852.2.

8. The Capacity Fees may be increased annually in accordance with any increases in the Engineering News Record Construction Cost Index.

9. To the maximum extent permitted by law, the Capacity Fee shall apply to state and local educational and other public entities.

10. This is an ordinance establishing a general regulation. If any portion of this ordinance is determined invalid or unenforceable for any reason by a court of competent jurisdiction, then such portion shall be deemed severed to the extent of the invalidity or unenforceability, and the remainder of this ordinance shall remain in full force and effect.

11. The District Secretary is hereby designated as the officer to publish or post this ordinance pursuant to applicable legal requirements.

I hereby certify that the foregoing is a full, true and correct copy of an ordinance duly passed and adopted by the Ironhouse Sanitary District Board of Directors at a meeting thereof held on the 21st day of July, 2020.

AYES, and in favor thereof, Members:

NOES, Members:

ABSENT, Members:

Cecilia Goff
Secretary to the Board
(SEAL)

APPROVED: _____
Dawn Morrow
President of the Board