

AGENDA

**ENGINEERING COMMITTEE MEETING
LEUCADIA WASTEWATER DISTRICT**

Wednesday, June 7, 2017 – 8:30 a.m.
1960 La Costa Avenue, Carlsbad, CA 92009

1. **Call to Order**
2. **Roll Call**
3. **Public Comment**
4. **New Business**
 - A. Adopt Ordinance No. 135 establishing the District's capacity fee and amending the Equivalent Dwelling Unit Factors Capacity Fee Schedule. (Pages 2 - 9)
5. **Information Items**
 - A. Update of the Leucadia (L1) Force Main Replacement Project (verbal)
 - B. Update of the Village Park No. 5 (VP5) Pump Station Replacement Project (verbal)
6. **Directors' Comments**
7. **General Manager's Comments**
8. **Adjournment**

MEMORANDUM

Ref: 17-5442

DATE: June 1, 2017
TO: Engineering Committee
FROM: Paul J. Bushee, General Manager 
SUBJECT: **Proposed Ordinance No. 135 - Amend Equivalent Dwelling Unit (EDU) Factors Capacity Fee Schedule**

RECOMMENDATION:

Staff requests that the Engineering Committee recommend that the Board of Directors:

1. Adopt Ordinance No. 135 – An Ordinance of the Board of Directors of the Leucadia Wastewater District Establishing the District's Capacity Fee and Amending the EDU Factors Capacity Fee Schedule.
2. Discuss and take other action as appropriate.

BACKGROUND:

Senate Bill 1069 (SB 1069), a bill defining how sewer fees are charged for Accessory Dwelling Units (ADU), became effective on January 1, 2017. An ADU is defined as an attached or detached residential dwelling unit with a kitchen and bathroom that is located on the same parcel as an existing single-family dwelling. The implementation of SB 1069 impacts how the District charges sewer capacity fees for an ADU, requiring an update of Ordinance No. 133 (Ord 133).

Additionally, recent legal challenges have been filed questioning the Equivalent Dwelling Unit (EDU) factors used to establish sewer fees. An EDU is a factor used to assess the proportion of wastewater that a home, office, or restaurant contributes to a collection system. One (1) EDU is the system capacity required by a residential unit, such as a single-family home. Examples of recent legal cases include the Ramona Municipal Water District (sewer) and the City of San Juan Capistrano (water) challenging the proportionality of the fees as required under Proposition 218.

The development of Ordinance No. 135 (Ord 135) is a result of these two items. EDU factors are used to calculate capacity and sewer service fees for District customers. Therefore, it is critical that these factors comply with new state laws and are evaluated to ensure they are established on a well-founded, logical, and justifiable basis. This will ensure the District is in compliance with the current laws and will withstand legal challenges of its fees.

DISCUSSION:

SB 1069 - Accessory Dwelling Units (ADU)

The recently enacted SB 1069 includes several items that will require changes as to how LWD assesses fees on accessory units. Fortunately, these changes are relatively minor both in administrative and financial impact. In general SB 1069 requires the following:

- An ADU must now be assessed according to the proportionate burden placed upon the sewer system.
- An ADU that is constructed within an existing structure (i.e. single-family dwelling or garage), attached or detached, is exempt from sewer capacity fees.
- An ADU constructed outside of an existing structure remains subject to sewer capacity fees.

Under the new law, an ADU can be based on either the size, in square feet (sf), or the number of plumbing fixtures of the ADU. Staff researched data to establish the average condominium or apartment size in the cities of Carlsbad and Encinitas. The data revealed the average size of a condominium or

apartment was approximately 1,000 sf. After careful consideration, staff is recommending that ADUs be assessed relative to their size in square feet. This is consistent with how LWD has assessed ADU's in the past. However, based on our research staff is recommending that the ADU square footage be adjusted to reflect that ADU's of 1,000 square feet or less be assessed a fee of 0.5 EDUs and over 1,000 square feet be assessed 1 EDU. This is relative to the current standard of 750 square feet.

The overall impact of the SB 1069 will result in a reduction of approximately 53 EDUs for existing accessory units with a corresponding reduction in services of approximately \$18,000 per year.

Food and Commercial Establishments:

To address the Food Establishment issue, Staff collected wastewater grab samples from restaurants to measure the Biochemical Oxygen Demand (BOD) and the Total Suspended Solids (TSS) levels to determine the strength of the discharged wastewater. The samples were analyzed by the Encina Wastewater Authority. The restaurants were carefully selected to ensure complete isolation of the restaurant producing the wastewater grab sample. In addition, water flow data was collected from the water districts in our service area to verify water usages for a variety of restaurant types. Staff also reviewed the state guidelines for assessing service fees for food establishments.

Staff's research confirmed that, LWD's fee structure for food and commercial establishments is in conformance state guidelines and is legally defensible. However, staff's research also found that, at times, LWD has not consistently assessed its food and commercial establishments. This was primarily due to the fact that language in the various ordinances was not always clear and was open to interpretation. Therefore, staff is recommending several changes to further clarify the language and eliminate the potential for inconsistent interpretation of how fees are assessed. The recommended changes are in the following areas:

- Limited Food Establishments (e.g. 7/11) – will be assessed in a manner consistent with commercial facilities.
- Low Food Preparation Establishments (e.g. yogurt shop) – will be assessed a minimum of 2 EDUs and include proportionate seating.
- High Food Preparation Establishments (e.g. Mexican or BBQ restaurant) – will be assessed a minimum of 3 EDU's and include proportionate seating.
- Establish a new category for commercial facilities with food preparation (e.g. grocery store with a bakery/deli)
- Clarification and correction of how commercial facilities are assessed.
- Other Minor administrative changes.

The recommended changes to food and commercial establishments will result in a reduction of approximately 49 EDUs with a corresponding reduction of approximately \$17,000 per year in service fees. Attached please find a copy of Ordinance 135 in bold/strikeout format for your review. Staff will present a detailed overview of the changes at the upcoming meeting.

FISCAL IMPACT:

The overall fiscal impact of Ordinance 135 will be a reduction of approximately \$35,000 per year in service fees and is not expected to significantly impact LWD's annual revenues or operations.

ier:PJB

Attachment

ORDINANCE NO. 135

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE LEUCADIA WASTEWATER DISTRICT ESTABLISHING THE DISTRICT'S CAPACITY FEE AND AMENDING THE EQUIVALENT DWELLING UNIT FACTORS CAPACITY FEE SCHEDULE

WHEREAS, the Leucadia Wastewater District (LWD or District) is a county water district that operates as a special district in accordance with Government Code Section 56036; and,

WHEREAS, the LWD Board of Directors has determined and set Equivalent Dwelling Unit (EDU) Factors for various Wastewater Use Categories used throughout LWD by Exhibit A of Ordinance No. 133;

WHEREAS, the LWD Board of Directors has determined that a Capacity Fee per EDU is appropriate and that the Capacity Fee has been set by Ordinance No. 131 at \$4,006 per EDU;

WHEREAS, the LWD Board of Directors has determined that the Equivalent Dwelling Unit (EDU) Wastewater Use Categories and EDU Factors in Exhibit A should be amended to comply with new State Laws for accessory dwelling units and to clarify other, existing use categories; and,

WHEREAS, a public hearing to consider continuation of the Capacity Fee per EDU and adoption of the amended EDU Factor Schedule attached as Exhibit A was duly noticed and held in accordance with Government Code Section 66016 on the date hereof,

NOW, THEREFORE, BE IT ORDAINED:

1. The LWD Wastewater Capacity Fee is continued at \$4,006 per Equivalent Dwelling Unit (EDU) for the privilege of capacity in the District's wastewater system.
2. That the capacity fee charges shall be assessed in accordance with the EDU Factors established by the District and amended herein as "Exhibit A".
3. That the provisions of this ordinance shall be effective immediately after its adoption, and thereafter, Ordinance No. 133 shall be void and of no further force and effect.

PASSED AND ADOPTED this 14th day of June, 2017 by the following vote:

AYES: TBD.

NOES: TBD.

ABSENT: TBD.

ABSTAIN: TBD.

Judy Hanson
President

ATTEST:

Paul J. Bushee
Board Secretary

	WASTEWATER USE CATEGORIES	
NO.	DESCRIPTION	EDU FACTORS
1	Single-Family Residence	1.0
	Second Dwelling Unit (Detached)	
	—w/Kitchen and w/Bathroom	4.0
	Accessory Dwelling Unit (Attached)	
	—w/Kitchen and w/Bathroom, 750 sq. ft. or smaller	0.5
	—w/Kitchen and w/Bathroom, 751 sq. ft. or greater	4.0
2	Accessory Dwelling Unit	
a	1,000 square feet or smaller	0.5
b	1,001 square feet or larger	1.0
	Capacity Fees do not apply to Accessory Dwelling Units (ADUs) that are exempt from such fees under State Law (generally new units contained within the existing space of a single-family residence or accessory structure). Sewer Service Fees still apply, and they are determined by the applicable EDU Factor for the ADU.	
3	Multiple Dwelling (apartments, duplexes, condominiums and townhouses)	
	Each living unit	1.0
4	Mobile Home or Trailor Park	
	Each mobile home or trailer space	1.0
5	Motel or Hotel	
a	Each unit without a kitchen	0.33
b	Each unit with a kitchen	0.55
6	Medical Care or Elder Care (hospitals, skilled nursing homes, convalescent homes, retirement homes, assisted living homes and similar facilities)	
	Each plumbed facility must have a 1.0 EDU minimum. If the EDU calculation below is less than 1.0, the base minimum of 1.0 will apply	1.0 min.
a	Multiple dwellings without individual kitchen & with on-site community eating facilities, per individual bed	0.4
b	Multiple dwellings with individual kitchen and on-site community eating facilities, per living unit	0.8

c	Multiple dwellings with individual kitchen and no on-site community eating facility, per living unit	1.0
d	Single dwellings with individual kitchen regardless of community facilities, per living unit	1.0
7	<u>Churches, Theaters, and Auditoriums</u> Each unit of 115 persons or fraction thereof	1.0
8	<u>Schools</u>	
a	Each Elementary School per 60 pupils or fraction thereof	1.0
b	Each Junior High School per 50 pupils or fraction thereof	1.0
c	Each High School per 30 pupils or fraction thereof	1.0
d	Each Trade, Vocational, University or College per 30 pupils or fraction thereof	1.0
9	<u>Laundries - Self Service</u> Per each washer	0.75
	Food Establishment including Restaurants, Taverns, and Similar Limited Food Preparation Establishments – seating not included Additional for each unit of 7 seats with multi-service utensils (washable) Additional for each unit of 15 seats with single-service utensils (disposable) All Other Food Establishments – seating not included Additional for each unit of 7 seats with multi-service utensils (washable) Additional for each unit of 15 seats with single-service utensils (disposable)	4.0 4.0 4.0 2.6 4.0 4.0
10	<u>Food Services Establishments</u>	
a	<i>Limited Food Preparation Establishments . Facilities that only engage in the reheating, hot-holding or assembly of ready to eat products and the incidental sale of beverages. See "Other Commercial or Industrial Users"</i>	(See Category 15)
b	<i>Low Food Preparation Establishments . Facilities that prepare food, but have have equipment and/or uses deemed to have a low risk of FOG ¹, BOD² or TSS³ discharge (microwave, toaster, toaster over, bread oven, combi-oven, steamers, freezers for serving frozen products, and other similar equipment)⁴. Includes facilities for which the preparation and sale of specialized beverages, such as coffees and smoothies, is an incidental part of the business. Minimum allows for up to 14 seats with multi-use utensils or up to 30 seats with single-use utensils</i>	2.0 min.

1)	Additional for each unit of 7 seats or portion thereof with multi-use utensils that exceeds minimum seating	1.0
2)	Additional for each unit of 15 seats or portion thereof with single-use utensils that exceeds minimum seating	1.0
c	<i>High Food Preparation Establishments</i> . Facilities that prepare food and have equipment and/or uses deemed to have a high risk of FOG ¹ , BOD ² or TSS ³ discharge (char-broiler, griddle, grill, stove (range), oven (range), deep fryer, kettle, rotisserie, smoker, tilt skillet, pizza oven and other similar equipment) ⁴ . Includes facilities for which the preparation and sale of specialized beverages, such as coffees, is the primary focus of the business. Minimum allows for up to 21 seats with multi-use utensils or up to 45 seats with single-use utensils	3.0 min.
1)	Additional for each unit of 7 seats or portion thereof with multi-use utensils that exceeds minimum seating	1.0
2)	Additional for each unit of 15 seats or portion thereof with single-use utensils that exceeds minimum seating	1.0

1 Fats, Oils, and Grease

2 Biochemical Oxygen Demand, 5 day

3 Total Suspended Solids

4 The type of equipment alone is not dispositive. A final determination regarding a facility's classification is made after considering its specific equipment and use characteristics

11	<u>Commercial Facilities With Food Preparation</u>	
a	For Food Preparation Area, See "Food Services Establishments"	(See Category 10)
b	For Commercial Area, See "Other Commercial or Industrial Users"	(See Category 15)
12	<u>Ballrooms, Banquet Facilities and Convention Facilities</u> Per block of 40 seats	1.0
13	<u>Automobile Service Stations</u>	
a	Not more than four (4) gasoline pumps	2.0
b	More than four (4) gasoline pumps	3.0
c	Additional for each washing rack, pit or floor drain (Drains subject to collecting toxic, hazardous, or potentially explosive waste are not allowed to be connected to sewer)	2.0
d	Car washes shall be individually evaluated by LWD District Engineer based on peak net discharge rate of specific equipment to be used with internal water recycling required	(Per Review)
14	<u>Banks and Savings and Loan Associations</u> Each 3,000 square feet or portion thereof	1.0
15	<u>Other Commercial or Industrial Users</u>	

a	Up to 1,000 square feet	1.0
b	Plus for each additional 1,000 square feet or portion thereof up to 5,000 square feet	0.4 0.6
c	Plus for each additional 1,000 square feet or portion thereof over 5,000 square feet	0.6 0.4
d	The Capacity Fees for establishments with unusual sewer characteristics or for any commercial use not described in the categories above shall be fixed by the Board of Directors by motion, resolution, or ordinance when each specific application is submitted	(Per Case)
	At any time the District may review the current standards of practice of any commercial or industrial customer with regard to sewer use during the previous year. If such use is not within the limits of the previous classification, the service may be reclassified accordingly and any additional capacity charges shall become due and payable immediately on request.	