

ORDINANCE NO. O. 01-2009

**AN ORDINANCE OF THE GOVERNING BOARD
OF THE BIG BEAR REGIONAL WASTEWATER AGENCY
INCREASING THE WASTEWATER CONNECTION FEE,
AMENDING ORDINANCE NO. 2 AND REPEALING
ORDINANCE NO. O.01-2008**

WHEREAS, the Governing Board (“the Board”) of the Big Bear Area Regional Wastewater Agency (“BBARWA”) has been empowered to establish sewer rates and charges, including a regional connection fee for each Equivalent Dwelling Unit (“EDU”), which each member agency of BBARWA is required to charge to each new sewer connection within the member agency’s jurisdiction; and

WHEREAS, BBARWA’s connection fee is currently \$2,867.76 adopted by Ordinance No. O.01-2008 on March 26, 2008; and

WHEREAS, in September 2003, the Board caused the preparation of the “Connection Fee Analysis Final Report” (the “Final Report”), which conducted a review of the BBARWA connection fee in accordance with Government Code section 66000 et seq., which requires a “fair share” analysis of the computation of the connection in order to ensure that new connections will bear an appropriate share of the costs of existing regional facilities and specific future capital improvements as discussed in the Report; and

WHEREAS, the Board has caused the preparation of the Annual Review and Recommendation of Sewer Connection fee for FY 2009-10, dated January 6, 2009. Together the Final Report and Annual Review and Recommendation of Sewer Connection Fee shall be collectively called the “Reports”; and

WHEREAS, the Board finds that it is appropriate at this time to adjust the amount of BBARWA’s connection fee based on the findings and analysis contained in the Reports; and

WHEREAS, the Board finds that it is appropriate and necessary to allow the Board to reduce the connection fee to be charged to a property owner who makes application to connect a residence or business establishment to the sewer system, where such reduction is in the best interest of BBARWA’s service territory; and

WHEREAS, notwithstanding the references herein to the fee charged as a “connection fee,” it is actually intended as both a “fee” for “sewer system” and as a “capacity charge,” as those terms are defined in Section 66013 of the Government Code; and

WHEREAS, notice of public meeting adopting this ordinance has been given in compliance with Government Code sections 66016 and 66018.

NOW, THEREFORE, be it ordained by the Governing Board of the Big Bear Area Regional Wastewater Agency as follows:

1. Findings. On the basis of the “Connection Fee Analysis Final Report,” dated

September 2003, Annual Review and Recommendation of Sewer Connection Fee for FY 2009-10, dated January 6, 2009 and other related information presented to the Board, the Board hereby adopts the Reports, and finds, with respect to the connection fee discussed therein as follows:

(a) The purpose of such connection fees will be to finance existing wastewater treatment facilities and planned capital improvements to BBARWA's treatment facilities, as identified in the Reports (the "Facilities"), as well as to finance that portion of the cost of other facilities and improvements which is attributable to the demand created by new development.

(b) There is a reasonable relationship between the amount of the connection fee and the costs of the Facilities attributable to new development upon which such fees will be imposed, as identified in the Report.

(c) There is a reasonable relationship between (i) the need for the Facilities and the type of development upon which the connection fee will be imposed, and (ii) the use of the connection fee and the type of development on which the connection fee will be imposed. Both relationships are described in the Reports.

(d) The connection fee herein adopted represents the reasonable cost borne by BBARWA in providing the Facilities and related services to new users. Further, the connection fee will assure that new connections will bear an appropriate share of the cost of the existing regional facilities and future capital improvements to be made to the wastewater treatment system made necessary by the increasing demands on BBARWA's facilities.

2. Increase in Fee. BBARWA's connection fee shall be and is hereby increased from \$2,867.76 per EDU to \$3,031.22 per EDU. Each Collection Agency (as the term is defined in BBARWA's Operating Agreement No. 1) shall require each property owner who makes application to connect a residence or business establishment to its sewage collection system on or after the effective date of this Ordinance to pay a connection fee in the aforesaid amount for each EDU assigned to such residence or business establishment by the Collection Agency, the total of which shall be referred to as the "Total Connection Fee." If requested to do so by the Collection Agency, the Board of BBARWA may reduce the Total Connection Fee to be charged to an applicant if such reduction is found by the Board to be in the best interest of BBARWA's service area.

3. Effective Date. The fees adopted by this ordinance shall become effective on July 1, 2009.

4. Amendment of Ordinance No. 2. In order to effectuate the increase in the connection established by this Ordinance, Subsection 2.06 of Ordinance No. 2 is hereby amended to read as follows:

"2.06 After June 30, 1983. For applications filed between July 1, 1983 and June 30, 1984, the connection fee shall be \$450 per EDU. For application filed after July 1, 1989, the connection fee shall be \$1400 per EDU. For applications filed after July 27, 1993, the connection fee shall be \$2,000 per EDU. For applications filed after July 26, 1994 but prior to July 1, 2004, the connection fee shall be \$2,298 per EDU. For applications filed after July 1, 2004, the connection fee shall be \$2,410 per EDU. For applications filed after July 1, 2005, the connection fee shall be

\$2,576.71 per EDU. For applications filed after July 1, 2006, the connection fee shall be \$2,704.99 per EDU. For applications filed after July 1, 2007, the connection fee shall be \$2,793.45. For applications filed after July 1, 2008, the connection fee shall be \$2,867.76. For applications filed after July 1, 2009, the connection fee shall be \$3,031.22.”

5. Ordinance No. O.01-2009. This Ordinance repeals Ordinance No. O.01-2008, but shall not be deemed to revive Ordinance No. 53, which was repealed by Ordinance No. O.01-2008.

6. Accounting of Funds. All revenues collected from the connection fees established herein shall be deposited with other such revenues in a separate capital facilities fund so as to avoid commingling of the charges with other revenues and funds of BBARWA. Any interest income earned by the monies in the fund shall be credited to the fund, and may be expended only for the purposes for which the connection fees are imposed. All revenue collected from the connection fees established herein shall be reviewed annually during the course of the annual audit, to identify any connection fees that have not been expended within five years of being collected. BBARWA shall make findings with respect to any portion of the connection fees remaining unexpended or uncommitted in the amount five or more years after deposit of such fees. These findings shall identify the purpose to which the connection fees are to be put, and will demonstrate a reasonable relationship between the fees and purpose for which the fees are imposed.

7. Validity. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, including any portion of the fee adopted herein, such invalidity shall not affect other provisions or applications of this Ordinance, including any portion of the fee not held invalid, and to this end the provisions of this Ordinance are declared to be severable.

8. Publication-Notice. The Secretary of the Board shall cause a copy of this Ordinance to be published once in the Big Bear Grizzly. The Secretary shall cause to be delivered a certified copy of this Ordinance to the City of Big Bear Lake, the County of San Bernardino and the Big Bear City Community Services District.

ADOPTED, this 25th day of February 2009.

Elizabeth Harris, Chair of the Governing Board
of the Big Bear Area Regional Wastewater Agency

ATTEST:

John Day, Secretary of the Governing Board
of the Big Bear Area Regional Wastewater Agency

I, John Day, Secretary of the Governing Board of the Big Bear Area Regional Wastewater Agency, DO HEREBY CERTIFY that the foregoing Ordinance of the Governing Board of the Big Bear Area Regional Wastewater Agency Increasing the Wastewater Connection Fee, Amending Ordinance No. 2 and Repealing Ordinance No. O.01-2008 of the Big Bear Area Regional Wastewater Agency, San Bernardino County, State of California, being Ordinance No. O.01-2009 was adopted at a regular meeting on February 25, 2009 of said Agency by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Secretary

(Seal)