

**BOARD OF SUPERVISORS AGENDA ITEM REPORT**

Requested Board Meeting Date: December 13, 2016

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**Title:** Proposed Revision of Pima County Code, Title 13, Chapter 24, Section 13.24.200 (F) Unauthorized Use of Sanitary Sewer

**Introduction/Background:**

In May 2016, the Pima County Board of Supervisors approved a Code Text amendment to Title 13, Chapter 24, to establish the current Unauthorized Use of Sanitary Sewer Fee Recovery guidelines. This amendment reduced the amount of time a customer would be back billed down to five years or the date of connection, whichever is less. Even though the length of the back bill period was reduced, the back bill continues to create a financial burden for many customers.

**Discussion:**

Since October 2015 RWRD has identified 91 unauthorized users of the sanitary sewer system. All of which have been back billed at the appropriate yearly Class Average for five (5) years or the connection date, whichever is less. Of these 91 cases, 64 percent have protested their back bill and received a recalculated back bill using their actual usage which financially benefits our customers. Therefore, RWRD is proposing a revision to 13.24.200 (F) (2) (a) to indicate past user fees will be based on the actual flow as metered by a Water Company or, if actual data is unavailable, the appropriate yearly class average for the prior two years or the period following connection date, which ever is smaller. RWRD also proposes amending 13.24.200(F) to clarify responsibility for payment of user fees.

**Conclusion:**

The requested revision to Pima County Code, Title 13, Chapter 24, Section 13.24.200 (F) Unauthorized Use of Sanitary Sewer is to provide the sewer user customers with consistency for all past user fee billings and overall customer satisfaction. It is our hope to relieve the customer of the frustration and a better understanding of the back billing process.

**Recommendation:**

Recommend the Board of Supervisors approve and adopt the proposed changes to Pima County Code, Title 13, Chapter 24, Section 13.24.200 (F)(2)(a) to: (i) base collection of past User Fees on the actual flow as metered or, or, if actual data is unavailable, the user class average for the prior two (2) years or the period following the connection date, whichever is less; and (ii) change 13.24.200(F) clarifying payment responsibility.

**Fiscal Impact:**

The direct fiscal impact to the County as a result of the adoption of the proposed changes to Title 13, Chapter 24, Section 13.24.200 (F)(2)(a) will be the ability for Pima County Wastewater to continue to recover the cost of unauthorized sewerage in the most expedient fashion for the customer.

**Board of Supervisor District:**

- 1       2       3       4       5       All

Department: Regional Wastewater Reclamation Department Telephone: 724-6434

Department Director Signature/Date: *John Smith* 11/21/16

Deputy County Administrator Signature/Date: *Shirley for John Beumel*

County Administrator Signature/Date: *C. Reddy* 11/21/16

ORDINANCE 2016-\_\_

AN ORDINANCE OF THE BOARD OF  
SUPERVISORS OF PIMA COUNTY, ARIZONA;  
RELATING TO WASTEWATER; AMENDING  
PIMA COUNTY CODE, TITLE 13, CHAPTER 24,  
SANITARY SEWER USER FEES

BE IT ORDAINED BY THE PIMA COUNTY BOARD OF SUPERVISORS:

**SECTION 1.** *Amendment.* The Pima County Code, Title 13, Chapter 24, Section 13.24.200(F) is hereby amended as follows:

F. Unauthorized Use of Sanitary Sewer.

1. Determination. Unauthorized Users of the sanitary sewer may be identified by dye test, physical connection, CCTV, or a preponderance of evidence such as existing connection permits, pretreatment inspections, pretreatment permits, or other reasonable methods.
2. Responsibility for Fees. If testing or other evidence indicates a property is connected to the public sewer system, the Unauthorized User ~~owner of the property~~ is responsible for any unpaid fees for the connection and discharge into the public sewer system. For purposes of this subsection (F), the term Unauthorized User means: (i) the person(s) identified by a Water Company as a customer for water service to the property; or (ii) if there is no established water account, the person(s) discharging to the public sewer from the property. If the Unauthorized User is not the owner of the property and the Unauthorized User does not pay any of the outstanding User Fees and interest, the owner of the property is responsible for the unpaid balance.
  - a. User Fees. Unauthorized users will be billed past user fees based on: (i) the actual water flow as metered by a Water Company; or (ii) if actual data from a Water Company is unavailable, the appropriate yearly user class average during

either for five the prior two years period or the period subsequent to the connection date, whichever is lesssmaller.

b. Interest. Interest will be assessed on the recovered amount at a rate of prime plus one percent per year.

c. The director retains the right to:

i. Pursue, for cause, the collection of user fees ~~beyond~~ for a period greater than fivetwo years. The collection of past user fees may extend to the connection date, or to June 30, 1979.

ii. Waive all or part of the unpaid user fees based on undue hardship such as for those used to qualify for an income based billing adjustment in Section 13.24.200(D)(1).

d. Establishment of Connection Date. If evidence, such as a user account for the property, exists, the date of connection is presumed to be the date supported by the evidence. If a connection date cannot be established, the department will utilize the Uunauthorized Uuser's first date of possession of the property as the connection date.

### 3. User Fee Recovery.

a. Fees. If a property is found to be connected to the public sanitary sewerage system, and there is no user account associated with that property, the Unauthorized User property owner, occupant, or other person responsible for the discharge will be billed an account activation fee, an unauthorized use recovery fee, and past due monthly user fees. These administrative fees are provided in Section 13.24.600, Table 4. If the Unauthorized User is not the owner of the property and the Unauthorized User does not pay any of the outstanding User Fees and interest, the owner of the property is responsible for the unpaid balance.

b. Fines or Action. Non-residential unauthorized users are subject to relevant fines or action specified under Chapter 13.36, Industrial Wastewater Ordinance for any violation of that portion of the Pima County Code.

**SECTION 3. Severability.** If any provision of this Ordinance, or the application of any provision thereof is determined by a court of law to be invalid, the invalidity of that provision

shall not affect other provisions or the application of this ordinance which can be given effect without the provision determined to be invalid, and to this end the provisions of this Ordinance are severable.

**SECTION 4.** *County Officers and Employees.* The various County officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

**SECTION 5.** *Effective Date.* This Ordinance shall become effective 31 days after it is adopted by the Board of Supervisors.

**PASSED AND ADOPTED** by the Board of Supervisors of Pima County, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**PIMA COUNTY BOARD OF SUPERVISORS:**

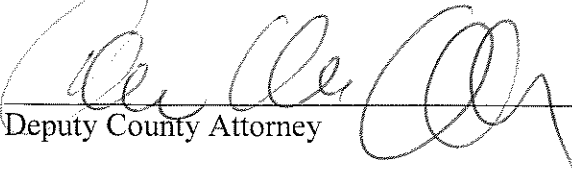
\_\_\_\_\_  
Chairperson

**ATTEST:**

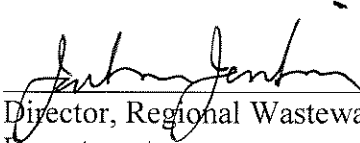
\_\_\_\_\_  
Clerk of the Board

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Deputy County Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Director, Regional Wastewater Reclamation  
Department

\_\_\_\_\_  
Director, Finance Department