

# **Falcon Heights Water and Sewer District**

## **Ordinance 2024 - 01**

AN ORDINANCE SETTING SEWER SERVICE CHARGES; IDENTIFYING THOSE RESPONSIBLE FOR PAYMENT; PROVIDING FOR COLLECTION OF SERVICE CHARGES; AND DECLARING AN EMERGENCY

WHEREAS, in 2006, the **Falcon Heights Water and Sewer District (“District”)** was formed as an Oregon Sanitary District, pursuant to authority under ORS Chapter 450, for the purpose of operation and maintenance of the water and sewer infrastructure of Falcon Heights; and

WHEREAS, the District is funded by an assessment of a portion of Falcon Heights homeowners’ property taxes at a rate of \$3.50 per \$1,000 of assessed value; and

WHEREAS, the Board of Directors of the Falcon Heights Water and Sewer District, elected July of 2023, determined that the majority of the District’s operating and maintenance expenses were being paid by Falcon Heights Condominium Association since 2007; and

WHEREAS, the Board of Directors of the Falcon Heights Condominium Association has determined that the Condominium Association can no longer fund the District’s expenses due to current financial obligations; and

WHEREAS, the current annual revenue of the District is insufficient to fund annual operation and maintenance expenses; and

WHEREAS, the shortfall in tax revenue received requires that the District impose a sewer service user charge, which the District may adopt pursuant to ORS 450.130, in order to finance the operation and maintenance of the District’s sewer infrastructure and system; and

WHEREAS, said charge must go into effect as of the beginning of the 2024-2025 budget year, commencing on July 1, 2024, to ensure revenues sufficient to maintain the financial stability of District; and

WHEREAS, due to the District’s annual budget cycle, the Board has determined it is essential to declare an emergency so as to ensure the financial stability and integrity of the District; and

WHEREAS, the District has provided notice of the Board’s consideration of this ordinance as required by ORS 198.540; and

WHEREAS, the District has provided an opportunity for public comment, as required under ORS 294.160(1).

NOW, THEREFORE, THE DISTRICT BOARD FOR THE FALCON HEIGHTS WATER AND SEWER DISTRICT hereby ordains as follows:

### SECTION 1. SHORT TITLE.

This ordinance shall be known as the Falcon Heights Water and Sewer District Sewer Rate Ordinance.

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## SECTION 3. PURPOSE.

This ordinance is adopted for the following purposes:

- 3.1 In order to protect the groundwaters within and adjacent to the core area of the community of Falcon Heights from pollution and to promote the health, safety, and welfare of the residents, a sewage system comprises of the following: An in ground pipe collection system within the district, a sewer lift station and pump outside the main gate and a main line pipe running from the District to the City of Klamath Falls lift station located at Kingsley Field Air Base. This system is operated by the Falcon Height Water and Sewer District for collection, treatment, and disposal of wastewater; and
- 3.2 In order to carry out the District's authorized function of sewage collection, treatment and disposal, it is necessary and in the public interest that the District establish rates for sewage service in amounts sufficient to pay the expenses of operating and maintaining such facilities, to provide for replacement, and to provide a margin for reserve.

## SECTION 4. DEFINITIONS.

- 4.1 "Collection and treatment works" shall mean all facilities for collection, pumping, treating and disposing of sewage to be operated by the District. "Treatment works", "treatment system", and "sewage system" shall be equivalent terms for "collection and treatment works".
- 4.2 "Commercial user" shall mean any premises used for commercial or business purposes which are not an industry as defined in this ordinance.
- 4.3 "District" shall mean the Falcon Heights Water and Sewer District, Klamath County,

Oregon.

4.4 “District Engineer” shall mean the consulting engineer retained by the District.

4.5 “Domestic Waste” shall mean any wastewater from dwellings.

4.6 “Operation and maintenance” shall mean activities required to ensure the dependable and economical function of treatment works.

(a) Maintenance: Preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance and replacement of equipment.

(b) Operation: Control of the unit processes and equipment that make up the treatment works. This includes keeping financial and personnel management records, laboratory control, process control, safety and emergency operation planning, employment of attorneys and consultants, payment of court costs; and payment of any costs or fees reasonably associated with any of the above.

4.7 “Person” shall mean any individual, firm, company, association, society, corporation or group.

4.8 “Public treatment works” shall mean a treatment works owned and operated by a public authority.

4.9 “Replacement” shall mean obtaining and installing equipment accessories or appurtenances that are necessary during the design or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

4.10 “Service area” shall mean all the area served by the collection and treatment works and for which there is one uniform user charge system.

4.11 “User” shall mean every person directly or indirectly using any part of the public treatment works of the Falcon Heights Water and Sewer District. User includes each separate non-residential establishment, whether or not separate plumbing facilities are located in the user’s portion of the building.

(a) “Residential user” shall mean domestic sewer usage.

(b) “Non-residential user” shall mean any other user.

4.12 “User charge” shall mean a charge levied on users of the sewage system, paid by a user for the user’s proportionate share of the cost of improvement, operation and maintenance (including replacement) of the system.

## SECTION 5. SEWER USER CHARGES.

5.1 User charges shall be levied on all users of the sewage system. These charges shall cover the costs of improvement, operation and maintenance, replacement, taxes, and other administrative costs of such collection and treatment works.

5.2 The user charge shall distribute these costs in proportion to each user's benefit derived and/or contribution to the wastewater loading of the treatment works. "Benefit derived" includes consideration of, but is not limited to recognition that the availability of the District's sewer system is of benefit to all District properties. The user charge will be based on actual sewer disposal costs remitted to the City of Klamath Falls for the prior year of service. The user charge rate will be established by resolution.

5.3 Should any user believe that the user's proportional cost is incorrect, user may apply for review of the user charge as provided in Section 8 of this ordinance.

5.4 Should the District Engineer determine that a user's wastewater contribution is incorrectly assigned, he or she shall reassign a more appropriate value to that user, and shall provide sufficient documentation for the District to notify the user of the appropriate value for user. Any such change to value for a respective user will be prospective only.

5.5 Records of the basis for sewer use charges shall be kept on file by the District, and shall be open for public inspection during regular District business hours.

## SECTION 6. RESPONSIBILITY, PAYMENT DELINQUENCIES AND PENALTIES.

6.1 The property owner of record is the responsible party for purposes of this ordinance, and shall apply for sewer services and be responsible for all charges, administrative and late fees therefore, as prescribed by this ordinance. Where a responsible party has a delinquent bill for one premises, the delinquency may be charged against that responsible party for sewer services obtained at any other premises within the District.

6.2 The responsible party shall be billed every quarter (4 times per year) for services at a rate to be established by resolution.

6.3 Sewer user charges shall be due and payable to the District at the end of the respective quarter for services billed, and if not paid in full by the end of the respective quarter for services billed, the account shall be considered delinquent.

6.4 For any delinquent account, a notice shall be mailed to the responsible party, notifying the responsible party that the account is delinquent, and that the responsible party or user has thirty (30) days to pay the delinquent bill in full, or the sewer charges may be collected in accordance with subsection 6.5.

6.5 Any sewer charge that is due and unpaid at the expiration of the time limitations set forth in subsection 6.4 shall be certified and presented to the tax assessor of Klamath County Oregon, for collection in the manner provided by ORS 454.225.

6.6 Interest shall accrue on all accounts from the date of delinquency. In addition, a penalty shall be assessed from the date of delinquency, which shall be added to the account and shall accrue interest in the same manner as all other delinquent charges beginning the following month. The interest rate and penalty charge shall be established by resolution.

6.7 Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties. In the District's discretion, it may refuse to provide new service to any person owing unpaid fees and/or penalties, plus interest to the District, until such amounts have been paid in full.

## SECTION 7. HANDLING OF FUNDS.

7.1 Bills for sewer user charges shall be mailed to the address specified in the application for permit to make the connection unless or until a different owner or user of the property is reported to the District.

7.2 All collections of sewer user charges shall be made by the Manager of the District. Sewer user charges shall be computed as provided in Section 5 of this ordinance and shall be payable as provided in Section 6 of this ordinance.

7.3 The Manager of the District is hereby directed to deposit in the Sewer Fund all of the gross revenues received from charges, rates and penalties collected for the use of the sewage system as herein provided.

7.4 The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance and repair of the sewage system; reasonable administration costs; expenses of collection of charges imposed by this ordinance and connection fees provided for in the Falcon Heights Water and Sewer District sewer system use and regulation ordinance together with any attorney fees, investigation fees and/or court costs incurred therein; and payments of the principal and interest on any debts of the sewage system of the District.

## SECTION 8. APPEALS.

8.1 Any responsible party who feels the applicable sewer user charge is unjust and inequitable as applied to the user's premises within the intent of the foregoing provisions may make written application to the District's Board of Directors requesting a review of the user charge. Any written request shall show the actual or estimated average flow and strength of the user's wastewater in comparison to the values upon which the charge is based, including how the measurements or estimates were made.

8.2 Review of the request shall be made by the District's Board of Directors and the District Engineer. The District Engineer shall determine if the request is substantiated or not, taking into account both user's benefit derived, as well as comparing District's data to the requestor's data. In District Engineer's sole discretion, the District Engineer may recommend further study of the matter by the District Engineer or other registered professional engineer.

8.3 If the request is determined to be substantiated, the user charges for the user shall be recomputed, based on the approved revised flow and/or strength data and the new charges thus recomputed shall be applicable retroactively up to six months, as appropriate.

8.4 Any appeal undertaken herein shall not excuse the responsible party from paying all sewer user charges presently assessed. Failure to pay such charges shall subject the

responsible party to the penalties provided in Section 6. A subsequent ruling on appeal favorable to the responsible party shall not act to extinguish any penalties or interest assessed against the responsible party for non-payment of any user fees; provided, however, that such penalties and interest shall be recomputed consistent with any reduction in user fees allowed on appeal.

SECTION 9. CONFORMITY WITH THE LAW.

This ordinance shall not substitute for or eliminate the necessity for conformity with any and all laws, ordinances, rules or regulations of the State of Oregon or its agencies, Klamath County, the District or other public entity.

SECTION 10. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 11. EFFECTIVE DATE.

This ordinance will go into full force and effect on the 30<sup>th</sup> (thirtieth) day after adoption by the District Board.

Read in full for its first meeting on \_\_\_\_ day of \_\_\_\_\_, 2024.

Read by title only for its second reading this \_\_\_\_ day of \_\_\_\_\_, 2024.

PASSED AND ADOPTED by a \_\_\_\_ vote for and a \_\_\_\_ vote against by the Falcon Heights Water and Sewer District Board of Directors, this \_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
John Stanton, Board Chairman

ATTEST:

\_\_\_\_\_  
Anthony Anghinetti, Board Treasurer