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DATE: July 6, 2023

TO: Honorable Mayor and Members of the City Council

FROM: Travis Sanborn, Finance Director

THROUGH: Kyle Knopp, City Manager

SUBJECT: Second Reading, Approval, and Adoption of Ordinance 399-2023 Amending Ordinance 335-2015, Chapter 13.10, Section 241 And Adding Chapter 13.10, Sections 242-246 Property Tax Liens for Nonpayment of Delinquent Sewer Bills for Customers that do not Subscribe to Water Service and a Means of Collecting the Delinquent Charges on the Property Tax Bill

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Receive a brief presentation regarding the proposed amendments; and
2. Open the public hearing, receive public input, and deliberate; and
3. Approve and Adopt Ordinance No. 399-2023 Amending Ordinance 335-2015, Chapter 13.10, Section 241 And Adding Chapter 13.10, Sections 242-246 Property Tax Liens for Nonpayment of Delinquent Sewer Bills for Customers that do not Subscribe to Water Service and a Means of Collecting the Delinquent Charges on the Property Tax Bill

BACKGROUND AND DISCUSSION:

As reported at your meeting on June 20, 2023, City staff is looking to amend Ordinance No. 335-2015, published as Rio Dell Municipal Code Section 13.10.241, to allow the City to send delinquent sewer charges to the auditor-controller to add them to the tax roll as a lien.

The proposed Ordinance Amendment includes reference to the Health and Safety Code §§ 5473 through 5473.7. Health and Safety Code § 5473 allows a city to send overdue sewer charges to the Auditor-Controller. The statute states that a city “may have such charges collected on the tax roll in the same manner, by the same persons, and at the same time as, together with

and not separately from, its general taxes.” The inclusion of the amendment by the City would conform to such Health and Safety Code, thus allowing City to submit overdue sewer charges to the Auditor-Controller so long as City follows the protocol laid out in the Health and Safety Code.

Health and Safety Code § 5473 allows the collection of overdue sewer charges through taxes. In order to do so, the following steps must be followed:

1. The City must prepare a written report each year and file it with the clerk, which must contain a description of each parcel of property receiving the services and the amount of the charge for each parcel for the year. Description of the parcels may be made either by referencing maps prepared in accordance with Section 327 of the California Revenue and Taxation Code, and also on file in the office of the County Assessor, or by reference to plats or maps on file in the office of the clerk.
2. Next, upon preparing and filing the written report, City must give notice and hold a hearing regarding the delinquencies.
3. The clerk must give notice of the filing of the written report and of a time and place of hearing, to be published pursuant to Section 6066 of the Government Code prior to the date set for the hearing, in a newspaper of general circulation printed and published within the City, if such newspaper exists, and if not, then notice must be published in a newspaper printed and published within Humboldt County.
4. Before collecting charges on the tax roll, the clerk shall cause notice in writing of the filing of the written report, proposing to have such charges for the next fiscal year collected on the tax roll and of the time and place of the hearing, to be mailed “to each person to whom any parcel or parcels of real property described in said report is assessed in the last equalized assessment roll available on the date said report is prepared, at the address shown on said assessment roll or as known to said clerk. If the legislative body adopts the report, then the requirements for notice in writing to the persons to whom parcels of real property are assessed shall not apply to hearings on reports prepared in subsequent fiscal years but notice by publication as herein provided shall be adequate.” (*Id.* at § 5473.1)
5. During the hearing, the City must hear and consider all objections or protests to the written report referred to in the notice. If the City finds that the protest is made by the owners of a majority of separate parcels of property described in the report, then the report shall not be adopted and the charges shall be collected separately from the tax roll and shall not constitute a lien against any parcel of land. (*Id.* at § 5473.2)
6. Upon conclusion of the hearing, the City may adopt, revise, change, reduce, or modify and charge or overrule any or all objections and shall make its determination upon each charge as described in the written report, which determination shall be final.
7. On or before August 10 of each year following the final determination, the clerk shall file with the county auditor a copy of the report prepared pursuant to Section 5473 with a

statement endorsed on the report over their signature that the report has been finally adopted by the legislative body and the county auditor shall enter the amounts of the charges against the lots or parcels in question as they appear on the current assessment roll. If the property is not described on the roll, the county auditor may enter the description on the roll together with the amounts of the charges as shown in the report.

The City's proposed amendment would allow the City to send overdue sewer charges as liens to the Humboldt County Auditor-Controller, so long as they include the assessment protocol and, after the ordinance is amended, prepare and file a written notice and hold a hearing regarding the notice and delinquencies, following protocol found at California Health and Safety Code §§ 5473 through 5473.7.

ATTACHMENTS:

Ordinance No. 399-2023: Amending Ordinance 335-2015, Chapter 13.10, Section 241  
And Adding Chapter 13.10, Sections 242-246 Property Tax Liens for Nonpayment of Delinquent Sewer Bills for Customers that do not Subscribe to Water Service and a Means of Collecting the Delinquent Charges on the Property Tax Bill

ORDINANCE NO. 399-2023



**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL  
AMENDING ORDINANCE 335-2015, CHAPTER 13.10, SECTION 241  
AND ADDING CHAPTER 13.10, SECTIONS 242-246  
PROPERTY TAX LIENS FOR NONPAYMENT OF DELINQUENT  
SEWER BILLS FOR CUSTOMERS THAT DO NOT SUBSCRIBE  
TO WATER SERVICE AND A MEANS OF COLLECTING  
THE DELINQUENT CHARGES ON THE PROPERTY TAX BILL**

**WHEREAS**, the City of Rio Dell Municipal Code Section 13.10.240 provides that the Department of Public Works has the right to discontinue water service to any customer that is delinquent in the payment of their sewer bill, and

**WHEREAS**, there is no provision in the City of Rio Dell Municipal Code to discontinue sewer service to a customer that is delinquent in the payment of their bill, but does not subscribe to City water service, and

**WHEREAS**, the City of Rio Dell needs an incentive and procedure to affect the collection of delinquent sewer bills from customers that use sewer services, but are habitually delinquent in paying for the service with no consequence, and

**WHEREAS**, Government Code Section 54348 provides for the maximum penalty for delinquent utility services, and

**WHEREAS**, Government Code Sections 54354-54357 gives local agencies the authority to place a lien on a property for delinquent utility charges and penalties, and

**WHEREAS**, Health and Safety Code Sections 5473-5473.7 authorizes the City of Rio Dell to submit overdue sewer charges to the auditor-controller.



**NOW, THEREFORE, BE IT RESOLVED**, that Ordinance No. 399-2023 amends Ordinance 335-2015, Chapter 13.10, Section 241 of the Rio Dell Municipal Code regarding the establishment of property tax liens for nonpayment of delinquent sewer bills for customers that do not subscribe to water service, and provides a means of collecting delinquent charges on the property tax bill.

**BE IT FURTHER RESOLVED**, that the City Council of the City of Rio Dell does hereby ordain as follows:

ADDING sections 13.10.242, 13.10.243, 13.10.244, 13.10.245, 13.10.246 as follows:

**13.10.242 Tax roll collection – Authority – Alternative method.**

A. When the city elects to use the tax roll on which general city taxes are collected for the collection of current or delinquent sewer service charges, proceedings therefor shall be had as now or hereafter provided therefor in Article 4, Chapter 6, Part 3, Division 5 of the Health and Safety Code.

B. The powers authorized by this section shall be alternative to all other powers of the city and alternative to procedures adopted by the council thereof for the collection of such charges.

**13.10.243 Tax roll collection – Report and notice.**

A. A written report shall be prepared and filed with the city clerk which shall contain a description of each parcel of real property receiving such services and facilities and the amount of the charge for each parcel for the forthcoming year computed in conformity with the charges prescribed by this chapter.

B. The city clerk shall cause notice of the filing of the report and of the time and place of hearing thereon to be published once a week for two successive weeks prior to the date set for the hearing published in a newspaper of general circulation, printed and published within Humboldt County. Prior to such hearing for the first time, the city clerk shall mail a notice in writing of the filing of the first report proposing to have such charges for the forthcoming fiscal year collected on the tax roll and of the time and place of hearing thereon, to be mailed to each person to whom any part or parcel of real property described in the report is assessed in the last equalized assessment roll on which general city taxes are collected, at the address shown on the roll or as known to the city clerk.

**13.10.244 Tax roll collection – Hearing and determination.**

A. At the time of the hearing, the council shall hear and consider all objections or protests, if any, to the report referred to in the notice and may continue the hearing from time to time.

B. Upon the conclusion of the hearing on the report, the council will adopt, revise, change, reduce, or modify any charge or overrule any or all objections and shall make its determination upon each charge as described in the report, which determination shall be final.

**13.10.245 Tax roll collection – Filing of report with county auditor.**

On or before the tenth day of August in each year following the final determination of the council, the city clerk shall file with the auditor a copy of the report with a statement endorsed thereon over his signature that it has been finally adopted by the council of the city, and the auditor shall enter the amounts of the charges against the respective lots or parcels of land as they appear on the current assessment roll.

**13.10.246 Tax roll collection – Parcels not in city or not on roll.**

A. Where any such parcels are outside the boundaries of the city, they shall be added to the assessment roll of the entity for the purpose of collecting such charges.

B. If the property is not described on the roll, the auditor shall enter the description thereon together with the amounts of the charges, as shown on the report.

**I HEREBY CERTIFY** that the foregoing Amendments were duly introduced at a regular meeting of the City Council of the City of Rio Dell on June 20, 2023, and furthermore were passed, approved, and adopted at a regular meeting of the City Council of the City of Rio Dell on the 6<sup>th</sup> day of July 2023 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

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Debra Garnes, Mayor

**ATTEST:**

I, Karen Dunham, City Clerk of the City of Rio Dell, State of California, hereby certify the above and forgoing to be a full, true, and correct copy of Ordinance No. 399-2023 adopted by the City Council of the City of Rio Dell on July 6, 2023.

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Karen Dunham, City Clerk, City of Rio Dell