

CLEARWATER RIVER WATERSHED DISTRICT

Informational Sheet: Proposed Rule Changes, Community Sanitary Sewer Operation & Maintenance Accounts

March 14, 2019

The Clearwater River Watershed District (CRWD) operates four community sanitary systems, each of which serves a residential subdivision. In February, the CRWD published proposed revisions to its rule that stipulates how system operation and maintenance (O&M) costs are billed to property owners.

The published rule included a memorandum with information on the reason for the rule revision and the changes the CRWD is proposing. As a result of questions, the CRWD is providing this further informational sheet.

How are O&M costs presently charged to property owners? Annual cost incurred by the CRWD for system O&M is billed quarterly to property owners served by that system. The cost is split equally among all lots that are connected to the system or have a dedicated stub for a connection. An exception is if the lot is not buildable. The CRWD has an adopted written policy stating the criteria it will use to classify a lot as not buildable.

What if a lot is buildable, but is not built on, and does not have a physical connection to the sanitary system? The lot remains subject to the quarterly O&M charge. In 2005, the CRWD Board of Managers considered different approaches to distributing the O&M cost, and decided that applying the charge to all buildable residential lots with an available connection was most fair and reasonable. Since then, the Board has considered the question on several occasions and affirmed this approach. The memorandum accompanying the proposed rule reviews the Board's reasoning in further detail.

Have the rules for O&M charges changed? No, the CRWD has applied O&M charges to individual lots in this way since the rule was adopted in 2005.

Would the rules for O&M charges change as a result of this revision? If the Board adopts the revision as proposed, the rules would not change. However, the Board will consider all views of property owners and others during this rule revision process. At the end of the process, the Board may alter the proposed revision on the basis of views presented. However, at this time the Board believes that the way O&M cost is distributed among property owners remains the most fair and reasonable as among options.

Could property owners see a change in O&M charges as a result of this revision? As noted, as a result of input received, the CRWD Board may adjust the way that costs are distributed among property owners. If the effect of any change is to reduce the proportion of O&M costs charged to certain property owners, for example, that would increase the proportion of O&M costs that other property owners would bear.

Why is the CRWD undertaking this rule revision? An owner of a buildable but unimproved lot questioned the CRWD's application of the quarterly charge to the lot. A district court judge reviewed the CRWD rule and stated that, in her view, the rule does not clearly express that O&M charges will be applied to lots that are not physically connected to the sanitary system.

For the CRWD to continue to distribute O&M charges as it has done since 2005, the rule must express this without ambiguity, so that property owners have a clear awareness and future legal challenges are avoided.

Are there other reasons for the revision? The CRWD criteria for what constitutes an “unbuildable” lot are in a separate policy statement. The CRWD is taking the opportunity to incorporate these criteria into the rule itself. Also, the revisions would update terms about interest and penalties on delinquent accounts to match current law, and would give clear guidance to property owners as to how an O&M charge may be appealed.

How may comments be provided to the CRWD Board? Please see the memorandum for information on submitting comments. The Board will hold a public hearing at 6:00 p.m., on March 20, 2019, at Annandale City Hall, at which time anyone may address the Board. The last day to submit written comments on this rule revision is April 17, 2019.

For more information, please contact Sonja Moseley, CRWD Administrator, at (320) 274-3935 or sonja@crwd.org.