

ORDINANCE NO. 2000-04

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON
LIMITING NEW WATER AND SEWER CONNECTIONS AND SERVICES TO
RESIDENCES AND BUSINESSES WITHIN THE CITY'S CORPORATE LIMITS,
AND UNDER CERTAIN CIRCUMSTANCES THE CITY'S URBAN LIMIT LINE
AND THE CITY WATER SERVICE AREA**

SECTION 1: Section 13.10 of the American Canyon Municipal Code is hereby established as follows:

13.10.010 Legislative Findings. The City Council of the City finds and declares the following:

A. Under state law, the City may provide water and sewer connections and service to residences and businesses within its corporate boundaries before committing to provide water and sewer connections and services to developments outside City limits;

B. The City has approved and may have applications in the future for new developments for residential, commercial and industrial uses that will require water and sewer connections and service;

C. Applications for the annexation of various properties to the City and the American Canyon Fire Protection District, a subsidiary district of the City (District) are currently pending before the Napa County Local Agency Formation Commission (LAFCO), and other applications may be submitted in the future from time to time;

D. Applications for new developments that will require large amounts of water which will be located in unincorporated County territory are pending before the County of Napa (County) and to date, applications for the annexation of these developments into the City have not been filed with LAFCO;

E. The City's primary obligation as a local government is to provide water and sewer connections and service within its boundaries or to those developments where applications for annexation to the City are pending before LAFCO, rather than to developments in unincorporated County territory;

F. The City is committed to the prudent management of its resources and to its economic growth and development;

G. Due to the passage of Proposition 13 and its implementing legislation, the availability of funding for infrastructure to extend water and sewer services beyond City limits is uncertain unless the involved area secures a revenue sharing agreement involving the County, the City and where applicable, the District, and annexes to the City, and to the District where appropriate;

H. The City cannot exercise land use authority over development outside of City limits to ensure that these developments pay their proportionate fair share of the cost for the extension of such infrastructure and a proportionate share of revenue derived from the development, in the absence of a revenue sharing agreement and annexation to the City and, where applicable, the District; and

I. The City's continued provision of water and sewer connections and services to facilitate development outside of City limits without requiring the annexation of such developments and entry into a revenue sharing agreement would adversely affect the City's and the District's economic stability and development. This is because the City and District would bear the cost of providing infrastructure and services but would not receive tax revenues or other financial benefits that would be available if such developments were annexed to the City, and where applicable to the District.

13.10.40 Priority of Service

A. The City shall give first priority for new water and sewer connections and services to residences and businesses located within the City corporate boundaries.

B. The City shall provide water and sewer connections and services, as available, to other residences and businesses located within the Urban Limit Line of City as described in the City General Plan, adopted on November 3, 1994, or as may be properly amended from time to time by City Council, only after one of the following two conditions has occurred: upon annexation to the City and the District, where that has not already occurred; or upon securing a revenue-sharing agreement involving the County, the City, and where applicable, the District.

C. The City may provide water service to developments outside of the City Urban Limit Line but within the Water Service Area of City, as available, provided the applicant agrees to an "in lieu of" revenue-sharing agreement with City, as set forth below.

13.10.40 Exemptions Notwithstanding the provisions of Section 13.10.020, City may provide water and sewer connections and services to developments outside of City limits, but within the Urban Limit Line area or the Water Service Area of City when it is established that there is a vested right to such connections or services under agreement or as otherwise provided by state law. Interested parties claiming a vested or other legal right to water or sewer connections or service which predated the adoption of this ordinance may advance such a claim and appeal to the City Council pursuant to Chapter 2.04 of the Municipal Code.

13.10.40 General Requirements and Limitations on Will-Serve Letters Issued to Developments Outside City's Corporate Limits Unless otherwise agreed to in writing by the City Council, any development outside the City's corporate boundaries must agree to the following conditions, in order to receive City water and/or sewer services:

A. The Applicant must clearly define the project being proposed, including the estimated water or sewage services required;

B. The Applicant must agree to abide by the Rules and Regulations of the City, including the payment of any and all fees and charges, unless otherwise specified in writing;

C. The Applicant must agree to waive any protest to the City's forty percent (40%) surcharge on Outside City Water Customers, established to offset the tax and other revenue loss to the City by not annexing into the City;

D. The Applicant must agree to grant any required utility or access easements that may be reasonably required by the City;

E. The Applicant must agree to pay a non-refundable deposit of five percent (5%) of the engineer's estimated costs of all required on- and off-site public water and/or sewer facilities, in order to cover plan check and inspection charges;

F. In the event the Applicant's estimated or actual water consumption exceeds the City's per acre water limit, currently at 650 gallons of water per day per acre, then the Applicant must agree to any one or a combination of the following conditions, as required by the City:

1. Reduce or redesign the project to reduce overall water consumption to a point at or below the City's limit, including but not limited to, a more aggressive water conservation program, or the use of recycled water whenever possible;
2. Integrate additional land into the project, which is also within the City's Water Service Area, in such a manner that the overall consumption for the entire area is at or below the City's limit; or
3. Agree to advance the costs to enhance the City's water supply, treatment and/or delivery system in order to compensate for the extra water demand. Any costs in excess of the project's fair share will be credited against the project's connection fees or reimbursed to the Applicant, as future development occurs;

G. The Applicant shall connect to City's Wastewater Collection and Treatment System, if the Applicant's project is within the City's Sewer Service Area, unless the City Council finds it creates an undue hardship on Applicant;

H. To the extent practical, the Applicant must agree to utilize recycled water in its business operations or for landscaping and irrigation purposes, if and when it becomes available to Applicant;

I. The City may impose any other requirements that are appropriate to the specific development being proposed, such as but not limited to, participation in a benefit assessment district;

J. No Will-Serve Letter shall be valid for a period greater than two years, unless specified in the Letter itself;

K. Any changes to the project description may void the Letter, at the sole discretion of the City Council; and

L. In granting a Will-Serve letter, City makes no determination as to land use entitlements required for the proposed project, and the issuance shall not be construed to be an expression of City's position regarding the use or intensity of use of the development property.

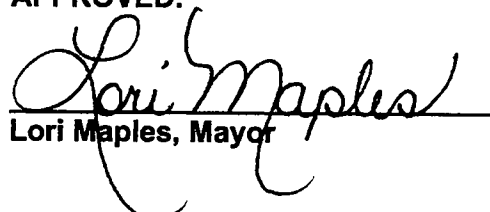
13.10.050 Declaring Outdated Will-Serve Letters to be Null and Void. Any Will-Serve Letter issued two years prior to the effective date of this Ordinance, and for which no building permit has been issued, shall be considered null and void, and shall have no effect whatsoever on City. Furthermore, the Will-Serve Letter will be void if the use for which it was intended has changed substantially, as determined by City Council.

SECTION 2: Severability. This chapter shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter, which can be given effect without the invalid provision, or application. To this end, the provisions of this chapter are declared to be severable and are intended to have independent validity.

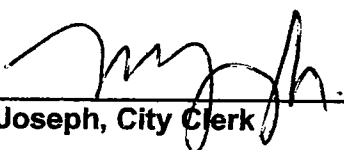
SECTION 3: The foregoing ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 20th day of April 2000, and was passed and adopted at a regular meeting of the City Council held on the 4th day of May 2000, by the following vote:

AYES:	Maples, Colcleaser, Anderson, Canziani, Shaver
NOES:	None
ABSTAIN:	None
ABSENT:	None


APPROVED:


Lori Maples, Mayor

ATTEST:


Mark Joseph, City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney