

**ORDINANCE 2007- 09**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON ENACTING NEW SECTIONS OF THE CITY OF AMERICAN CANYON MUNICIPAL CODE RELATING TO WATER CAPACITY FEES**

**WHEREAS**, California state law requires that water capacity fees be proportional to the cost of providing capital facilities to maintain water service; and

**WHEREAS**, the City established a Blue Ribbon Committee on Water Resources composed of residents, businesses and government representatives has recommended that water capacity fees be enacted sufficient to meet the cost of providing capital facilities to maintain water service; and

**WHEREAS**, the City has received a capacity rate study, prepared by Bartle Wells Associates, consistent with American Water Works Association Guidelines, which details water capacity fee recommendations that allow the City water enterprise to meet its cost of maintaining water service in a fair and equitable manner; and

**WHEREAS**, the City Council held a public hearing on December 4<sup>th</sup>, 2007, duly noticed in accordance with the Ralph M. Brown Open Meeting Act where it heard all testimony and protests related to the fees outlined in the public notice;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1: Sections 13.06.010 through Section 13.06.070 of the Municipal Code, inclusive, are enacted to read as follows:

13.06.080 Declaration of intent to provide for water capacity fees.

- A. The purpose of a water capacity fee is to allow the City to recover the costs associated with providing a new connection to the City's water system. The fee is set to recover the costs of all existing infrastructure, provided by existing customers for the benefit of the new connection, as well as all future capital projects required to provide that new connection with sufficient water supply, treatment, and distribution capacity in the City's water system.

13.06.090 Water capacity fee.

- A. Except as described in subsection (E) of this Section, at the time of submission of an application for a building permit for connection to the

City water system, an applicant shall be required to pay a water capacity fee, in proportion to the new connection's impact on the water system.

- B. For the purposes of calculating the water capacity fee, a single family residence shall be considered one "equivalent dwelling unit" (EDU), with one EDU being assigned a design flow of 680 gallons per day. For the purposes of calculating the average daily water use of a multi-family residence requesting connection to the water system, each within a multi-family residence unit will be assumed to be 65% of one single family EDU. Single and multi-family residences will pay water capacity fees according to subsection (D) below.
- C. All applications for building permits for non-residential connections will be required to pay a water capacity fee proportional to the expected average daily water use of the connection, as calculated by the applicant and certified by the City Manager, Public Works Director or other designated staff. The applicant shall, using commonly accepted building and plumbing practices, demonstrate the average daily water use in gallons or gallons per day (gpd) for the connection to the water system, and the water capacity fee shall be calculated according to the cost per gpd detailed in subsection (D).
- D. Water capacity fees shall be calculated according to the following schedule.

Single family residence (one EDU)	\$11,634
Multi-family residence (.65 EDU)	\$7,562
Commercial/industrial/public (per gpd)	\$17.11

- E. Connection for fire flow only from a water main to a structure shall be charged a water capacity fee based on the largest pipe diameter of the fire connection up to a maximum of one-inch diameter. The water capacity fee for residential connections shall be based on the meter size needed for basic and domestic flow, not the minimum meter size required for fire flow.
- F. The City in its sole discretion may adopt revised water capacity fees based on the proportionate effects of inflation or changes to the cost of living. The Engineering News Record Construction Cost Index for the San Francisco region shall be used for adjusting said fees. Any such adjustment in accordance with this Section may be approved by a resolution of the City Council.

13.06.100 Water use substantially increased — additional water capacity fee.

- A. If, in the judgment of the City Manager or Public Works Director, and after the final water capacity fee is established, any customer increases the demand on the water system capacity in a substantial and permanent way, due to changes in the size or nature of the building or premises previously permitted, the City shall charge and collect additional water capacity charges based upon the increased water use. The additional water capacity fee shall be established by computing the new number of EDUs in service at the connection, and then subtracting from that figure the number of EDUs originally purchased in accordance with Section 13.06.020.

13.06.110 Water capacity fees — economic development incentives-

- A. At the written request of the applicant, and with the approval by resolution of the City Council, an applicant may enter into an agreement with the City for a revised water capacity fee upon finding of one or more of the following conditions:
  - 1. The project provides a needed public service to the City of American Canyon or its residents;
  - 2. The project provides a significant contribution of sales tax or transient occupancy tax to the City of American Canyon;
  - 3. Based on an independent economic analysis, a project water demand for an inside-the-City application for water service might vary by more than ten percent from anticipated water demand calculated in accordance with Table 13.06.020, including the addition of an allowance for unmetered water losses throughout the City's water system.
- B. Agreements for a revised water capacity fee shall be approved by a resolution of the City Council.
- C. An applicant may enter into an agreement with the City to provide improvements to the City water system that are off-site to the project or oversized. In such an event, the applicant may be reimbursed the cost of such facility from water capital improvement funds, not to exceed that portion of the improvement considered off-site or oversized to the applicant's project.
- D. The City may require an applicant to construct oversized or off-site facilities as shown on the capital improvement program adopted by the City Council, if the applicant's project increases the City's water system average-day annual demand by two percent or greater as determined by the City Engineer. In such cases, the applicant shall be offered a credit

against water connection fees in the amount of the estimated off-site or oversized facilities to applicant's project. (Ord. 2001-09 §§ 2 and 3, 2001; Ord. 99-07 § 2 (part), 1999)

13.06.120 Water capacity fee — intense uses.

- A. All projects within the City conforming to City zoning as industrial and all projects within the unincorporated area of Napa County, for which the City provides water connections pursuant to Section 13.10.040 of this title, shall be subject to a limitation on water service if and when the project's average day annual demand for water exceeds six hundred fifty gallons per acre per day on any parcel. The average day annual demand shall include an allowance for unmetered water losses of the City system as determined by the City Engineer. In such cases, the applicant shall mitigate the consumption above six hundred fifty gallons of water per acre per day, average annual demand, as provided in Section 13.10.040.
- B. The City shall monitor the annual average daily demand, and in increments more frequently than once a year as deemed appropriate by the City.
- C. The City's provision of water services to projects located outside City limits shall be governed by Chapter 13.10 of this title and applicable state law. (Ord. 2000-08 § 2, 2000)

13.06.130 Water capacity fees—adopted by resolution use.

- A. The City Council declares its intent to make any future changes in water capacity fees established in this chapter by setting forth the changes in a resolution duly adopted, and the adoption of such a resolution shall have the same force and effect as though the changes had been made by the adoption of an ordinance.
- B. The City may use capacity fees to advance funds to implement provisions of the annual City capital improvement program or to deal with short-term cash flow requirements.

SECTION 2: The City Council finds that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) because:

- A. The Ordinance changes no land use regulations and grants no entitlements to development of either real property within the City or on real property within the City Water Service Area in which the described services are rendered and, therefore, has no potential for causing a significant effect on the physical environment and is exempt from review

under CEQA because CEQA does not apply to the establishment of charges by public agencies which are necessary for the purpose of funding capital projects necessary to maintain service within the existing service area, CEQA Guidelines section 15273(a)(4); and,

- B. The Ordinance is exempt from review under CEQA as the Final Environmental Impact Report (FEIR) for the City General Plan, certified November 3, 1994, a Program EIR, which is incorporated in this matter by this reference, analyzed the "Policy Buildout" of the City set forth in the General Plan Land Use Element concluding that the General Plan buildout impact on water supply could be adequately mitigated by implementing programs of the General Plan that assure that the planning, financing and construction of adequate water supply, treatment, storage and distribution facilities precede the growth projected by the General Plan.

SECTION 3: Effective date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 4: The provisions of this Ordinance shall be severable. If any portion is found to be unconstitutional, illegal, or invalid, the remainder shall survive and remain effective and enforceable.

SECTION 5: The foregoing Ordinance was introduced and read at the regular meeting of the City Council of the City of American Canyon, State of California, held on the 4<sup>th</sup> day of December, 2007, and approved and adopted at a regular meeting on the 18th day of December, 2007, by the following vote:

**AYES:** Garcia, Bennett, Callison, West  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Coffey



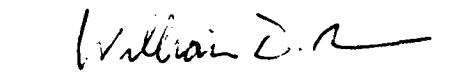
\_\_\_\_\_  
Leon Garcia, Mayor

**ATTEST:**



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Cherri Walton, Deputy City Clerk

**APPROVE AS TO FORM:**



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William D. Ross, City Attorney