

ORDINANCE 2007- 12

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

WHEREAS, California state law requires that wastewater 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 which has recommended that wastewater capacity fees be enacted sufficient to meet the cost of providing capital facilities to maintain wastewater service; and

WHEREAS, the City has received a capacity fee 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 4th, 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 14.06.010 through 14.06.080 of the Municipal Code, inclusive, are enacted to read:

14.06.010 Wastewater capacity fee—purpose.

- A. The purpose of a wastewater capacity fee or wastewater connection fee is to allow the City to recover the costs associated with providing a new connection to the system with capacity in the wastewater 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 wastewater collection, treatment, and disposal capacity in the system.

14.06.020 Wastewater capacity fee—all normal strength connections.

- A. At the time of submission of application for building permit for connection to the City wastewater collection system, an applicant shall pay a

wastewater capacity fee in proportion to use of the capacity of the wastewater system.

- B. For the purposes of calculating the wastewater capacity fee, a single family residence will be considered one "equivalent dwelling unit" (EDU), with one EDU being equal to a discharge of an average of 300 gallons per day to the sanitary sewer. For the purposes of calculating the average daily discharge to the sanitary sewer for a multi-family residence, each multi-family residence unit will be assumed to be 65% of one single family unit.
- C. All applications for connection to the wastewater system by non-residential connections will be required to pay a wastewater capacity fee proportional to the expected average daily discharge to the sewer system, 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 (such as the Universal Plumbing Code) demonstrate the average daily discharge to the wastewater system, and the wastewater capacity fee will be calculated by multiplying this average daily discharge by the unit cost per gallons per day (gpd) according to the schedule below.
- D. Wastewater capacity fees for all normal strength connections, as defined by Chapter 14.04.005, shall be calculated based on the following schedule:

Single family residence (one EDU)	\$8,016
Multi-family residence (.65 EDU)	\$5,210
Commercial/industrial/public/other (per gpd)	\$26.72

14.06.030 Wastewater capacity fee—high strength or industrial.

- A. For all high strength connections to the wastewater system, the wastewater capacity fee shall be calculated based on the numbers of EDUs of the new connection, with each EDU paying the same rate as one EDU as outlined in 14.06.020(D)

$$\text{EDUs} = \frac{\text{Average daily flow}}{\text{mg/l}} \times \left[.448 + \frac{(.276 \times \text{BOD in mg/l})}{236 \text{ mg/l}} + \frac{(.276 \times \text{TSS in mg/l})}{238} \right]$$

"BOD" means bio-chemical oxygen demand and "TSS" means total suspended solids. BOD and TSS are expressed in milligrams per liter (mg/l). Values of BOD and TSS for a particular project shall be subject to approval by the City Engineer. The charges shall be subject to adjustment in accordance with Section 14.04.050(B).

14.06.040 Wastewater use substantially altered—additional wastewater capacity fee.

- A. If, in the judgment of the City Manager or Public Works Director, and after the final wastewater capacity fee is established, any customer increases the discharge to the wastewater system 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 wastewater capacity charges based upon the increased use of wastewater capacity. The additional wastewater 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 14.08.020 or 14.08.030.

14.06.050 Temporary wastewater connection fees.

- A. The City Council may adopt by resolution, temporary wastewater connection fees based on a finding by the City Council that a particular use is temporary and does not conform to the typical use categories of residential, commercial or industrial. In such cases the temporary wastewater connection fee shall be charged for each unit of seven hundred forty-eight gallons of wastewater flow based on the following formula:

Temporary Connection Fee = \$3.29/unit of wastewater x (0.448 + (.276 x BOD (in mg/1) ÷ 236) + (0.276 TSS (in mg/1) ÷ 238))

- B. The City Manager or his or her designee may be delegated responsibility for billing and monitoring temporary connection fees in accordance with this Section. (Ord. 2004-06 § 4, 2004; Ord. 2001-03 § 6, 2001.)

14.06.060 Adjustments to wastewater connection fees.

- A. The City at its sole discretion may adopt revised wastewater connection 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 Area shall be used for adjusting wastewater connection fees. Said adjustments in accordance with this Section shall be made annually through 2011, thereafter adjustments to the connection/capacity fees shall be approved by a resolution of the City Council.
- B. The City Council, at its sole discretion, may commit participation by the general fund of the City for fifty percent of the connection fee in an amount not to exceed ten thousand dollars to be applied to wastewater

connection fees for a qualifying nonprofit or charitable organization in the City. (Ord. 2004-06 § 5, 2004; Ord. 2001-03 § 7, 2001.)

14.06.070 Reclaimed water mains.

- A. The City Council may adopt by resolution a plan of reclaimed water mains to serve future growth of the City. New development which fronts such reclaimed water mains may be required to install such mains at no cost to the City. (Ord. 200 § 8, 2001.)

14.06.080 Revenue for repayment of loan—Wastewater capital reserve fund.

- A. The City dedicates the following sources of revenue to repayment of any and all State Revolving Fund loans on Project No. C-06-4666-110, the water treatment and reclamation project: waste user charges, wastewater connection fees and connection fees, where appropriate. This dedicated source of revenue shall remain in effect until any such loan (or loans) is fully discharged, unless modification or change of such dedication is approved in writing by the State Water Resources Control Board.
- B. A wastewater capital reserve fund is established. Deposits to the fund shall be made annually by the City Council, not to exceed seventy-five thousand dollars per year but at least 0.5 percent of the loan amount for the wastewater treatment plant project. Such funds shall be maintained in accordance with "The Policy for Implementation State Revolving Fund for Construction of Waste Water Treatment Facilities," as adopted by the state of California Water Resources Control Board. 2001-03 § 2, 2001; Ord. 99-04, 1999.)

SECTION 2: Effective date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 3: 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 4: 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 Wastewater 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 as set forth in the General Plan Land Use Element concluding that the General Plan buildout impact on wastewater treatment could be adequately mitigated by implementing programs of the General Plan that assure that the planning, financing and construction of adequate wastewater treatment, storage and distribution facilities precede the growth projected by the General Plan; and,
- C. The Ordinance also is exempt from review under CEQA as the FEIR for the City Wastewater Treatment and Reclamation Project (SCH. No. 98092020 certified May, 1999), which is incorporated by this reference, concluded that the Wastewater Treatment and Reclamation Project Plan impact on wastewater treatment capacity could be adequately mitigated by implementing programs of the General Plan for the intensity and uses delineated in the land use element of the General Plan that assure planning, financing and construction of adequate wastewater facilities if they precede the growth authorized by the General Plan.

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 4th 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:



Cherri Walton, Deputy City Clerk

APPROVE AS TO FORM:



William D. Ross, City Attorney