

ORDINANCE NO. ____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING: (I) CHULA VISTA MUNICIPAL CODE SECTION 13.14.090 (SEWER CAPACITY CHARGE); (II) THE CITY'S MASTER FEE SCHEDULE (CHAPTER 12 – SEWER FEES); AND (III) THE CITY'S SUBDIVISION MANUAL (SECTION 3-300 – SEWER DESIGN CRITERIA), TO MODIFY THE SEWER CAPACITY CHARGE AND THE WASTEWATER UNIT GENERATION RATES

WHEREAS, in March of 1985, the Engineering Department prepared a study titled, "Sewerage Facility Participation Fee Study-Modified March 1985." The purpose of this study was to investigate the feasibility of establishing a capacity fee that would be applicable to all new sewer connections to the City's sewer collection system; and

WHEREAS, upon completion, this study recommended among other things, the establishment of a sewerage capacity charge that would be adjusted on an annual basis to reflect changes in construction costs (suggested basis: Engineering News Record Construction Index most applicable to July 1 of each year); and

WHEREAS, on April 2, 1985, City Council by Ordinance No. 2107, approved the establishment of the sewerage facility participation fee, now referred to as the sewerage capacity charge, to enable the citizenry to be repaid for their initial investment and to facilitate the development of Chula Vista. At that time, the fee was set to be \$300 per Equivalent Dwelling Unit (EDU); and

WHEREAS, the City of Chula Vista along with fourteen other agencies that belong to the Metro System, sends its flow to the City of San Diego's Point Lorna Wastewater Treatment Plant for handling of the sewage; and

WHEREAS, in anticipation of the significant costs of upgrading the Point Lorna Wastewater Treatment Plant to a secondary treatment facility, for which the City of Chula Vista, as well as other participating agencies, was liable, Council on May 5, 1987, approved Resolution No. 13004 and Ordinance No. 2002 increasing the sewerage capacity charge from \$300 to \$600; and

WHEREAS, in 1989 following the adoption of the Clean Water Act, the Environmental Protection Agency (EPA) directed the City of San Diego to upgrade the plant to a secondary treatment facility. Since Federal funds were not anticipated to be available for the required upgrades at that time and the cost of bringing the plant into compliance seemed to be far greater than what was originally anticipated in 1987, Council on October 17, 1989 approved Resolution Nos. 15352 and 15352A. These resolutions increased the sewerage capacity charge to \$2,000, pending the completion of various studies being conducted at that time to determine the impact of upgrading the treatment plant; and

WHEREAS, on October 9, 1990, City Council, by Resolution No. 15894, further increased the sewer participation fee to \$2,220 to enable the City to meet its obligation to the Metro System for the upgrade of the treatment plant; and

WHEREAS, on March 18, 2003, City Council, by Ordinance No. 2900, further increased the sewer participation fee to \$3,000 to enable the City to acquire additional capacity rights in the Metro System and cover the costs associated with the significant increment in Metro expenditures and improvements required to adequately service the City's growth; and

WHEREAS, on May 10, 2005, City Council, by Ordinance No. 3007, further increased the sewer participation fee to \$3,478 to allocate resources for the acquisition of additional capacity rights in the Metro System and cover the costs associated with the short-term and long-term sewer capacity needs of the City; and

WHEREAS, Chula Vista currently has capacity rights in the Metro Sewer System to cover growth for the next few years. This capacity was acquired with funds generated by the sewerage capacity charge that existing residents paid when they made their connection to the City's sewer system. If reserved capacity in the Metro Sewer System had not been purchased, new residents would either have not been permitted to build, or would have been required to pay for the acquisition of additional treatment capacity. Instead, new residents are permitted to make use of the reserved capacity held by the City; and

WHEREAS, the modification of the sewerage capacity charge, applicable to all new sewer connections, is proposed as a mean of recuperating the cost of reserve capacity and also maintain a fund that will fund the acquisition of additional capacity and subsidize the cost of the necessary sewer improvements that will benefit all City residents; and

WHEREAS, consistent with California Government Code Sections 66000, *et seq.*, the City Council recently caused a study to be conducted to reanalyze and reevaluate the impacts of development on the City's sewer system, the adequacy of the existing wastewater collection system to sustain the long-term growth of the City, and further reevaluate and reanalyze the Sewer Capacity Charge and Wastewater Generation Rate necessary to pay for the sewer facilities, which study was prepared by Infrastructure Engineering Corporation, Inc. and is entitled, "City of Chula Vista Wastewater Collection Master Plan" (the "Plan") and

WHEREAS, the Plan will also assist the City in budgeting for Capital Improvement Projects (CIP), allocating resources for the acquisition of additional sewage capacity and determining the short and long-term sewer capacity needs of the City and the Plan advises the City to implement the "Incremental Capacity Expansion" method, which is to allow new users to pay fully for the additional facilities without imposing a burden on existing customers. This modification will be needed to keep up with inflation to prevent the Sewerage Capacity Charge from falling behind the costs of constructing new facilities; and

WHEREAS, wastewater unit generation rates are used to estimate wastewater flow projections and determine infrastructure improvements required to serve existing and future development needs. This forms the basis of the Sewerage Capacity Charge; and

WHEREAS, the Plan supports and staff recommends to modifying the wastewater unit generation rate from 265 gallons per day per equivalent dwelling unit (GPD/EDU) to 230 GPD/EDU; and

WHEREAS, utilizing the "Incremental Capacity Expansion" method as the basis of the modification, the Plan supports and staff recommends the Sewerage Capacity Charge be modified from \$3,478 per Equivalent Dwelling Unit to \$3,450 per Equivalent Dwelling Unit; and

WHEREAS, the City Council has determined that the amount of the charge levied by this ordinance does not exceed the estimated cost of providing the public facilities; and

WHEREAS, the City Council does hereby find that the Sewer Capacity Charge herein imposed is for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas. The proposed activity does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Therefore, the City finds that the adoption of this ordinance is statutorily exempt under the provisions of CEQA Guidelines Section 15060(c)(3); and

WHEREAS, Chula Vista Municipal Code section 13.14.090 authorizes the imposition of the Sewer Capacity Charge; and

WHEREAS, City staff recommends that section 13.14.090 be amended in accordance with the Plan, to provide for annual adjustments to the Sewer Capacity Charge in order to adjust the charge each October 1st, based on the Engineering News-Record Construction Cost Index, for the Los Angeles area; and

WHEREAS, the City's existing sewer capacity charge is set forth in the City's Master Fee Schedule, in Chapter 12, "Sewer Fees," and staff recommends that the Master Fee schedule be amended as necessary to reflect the adopted sewer capacity charge for Fiscal Year 2014/15, as presented to the City Council; and.

WHEREAS, the City's existing wastewater unit generation rates are set forth in the City's Subdivision Manual, in Section 3-300, "Sewer Design Criteria," and staff recommends that the Subdivision Manual be amended as necessary to reflect the adopted wastewater unit generation rates, as presented to the City Council.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Findings

The City Council finds that the collection of the sewerage capacity charge, established by Ordinance No. 2107, at the time the building permit is issued is necessary. This will ensure that

funds will be available for the acquisition of capacity rights in the Metro System, construction improvements to enhance capacity in the City's sewer system and to pay for the treatment of sewage; and

The City Council finds that developers of land within the City should be required to mitigate the burden created by development through the payment of a fee to finance a development's appropriate portion of the total cost of the sewer improvements, sewage treatment and capacity rights in the Metro System; and

The City Council finds that the legislative findings and determinations set forth in the ordinance referred to in the above recitals continue to be true and correct; and

The City Council finds, after consideration of the evidence presented to it, that the increase of the Sewer Capacity Charge, including providing for an annual update to the charge based on the ENR Construction Cost Index, and Wastewater Generation Rates is necessary in order to assure adequate sewer service to the City; and

The City Council finds, based on the evidence presented at the meeting and the information received by the City Council in the ordinary course of its business, that the imposition of the Sewer Capacity Charge on all future developments in the City for which building permits have not been issued is necessary in order to protect the public health, safety and welfare; and

The City Council finds that the amount of the amended charge levied by this ordinance does not exceed the estimated cost of providing the sewer service to the developments within the City; and

The City Council finds that it is appropriate to approve an increase to the Sewer Capacity Charge, annual indexed increases to that charge, and an increase to the Wastewater Generation Rates, to reflect the acquisition of additional capacity rights; the annual increase in the Metropolitan Sewerage System Costs and the increase in the need for improvements created by the demand for more capacity in the sewer system; and

The City Council finds it is necessary to ensure sewer capacity in the Metro system before the reserved capacity is exhausted and to ensure the timely payment to adequately fund ongoing and future sewer improvements to enhance capacity in the City's sewer system triggered by future development.

Section II. California Environmental Quality Act (CEQA) Findings for Statutory Exemption.

The City Council does hereby find that the sewerage capacity charge herein imposed is for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas. Therefore, the City finds that the adoption of this ordinance is statutorily exempt under the provisions of CEQA Guidelines Section 15060(c)(3).

Section III.

A. That Chula Vista Municipal Code Section 13.14.090 be amended to read as follows:

“A. The owner or person making application for a permit to develop or modify use of any residential, commercial, industrial or other property shall pay a sewer capacity charge. All revenue derived from such fees shall be deposited in the trunk sewer capital reserve fund. The amount of such charge shall be the required fee(s).

B. The amount of the fee shall be adjusted, starting on October 1, 2015 and on each October 1st thereafter, based on the one-year change (from July to July) in the Los Angeles Construction Cost Index as published monthly in the Engineering News Record. Adjustments to the above charge based upon the Construction Cost Index shall be automatic and shall not require further action of the City Council.”

B. That Chapter 12 - Sewer Fees – Construction & Development – Section 12-100 - Sewer Capacity Charge, of the Master Fee Schedule be amended to read as follows:

"SEWER CAPACITY CHARGE

Owner or person making application for a permit to develop or modify use of any residential, commercial, industrial or other property shall pay a sewer capacity charge.

One EDU of flow.....\$3,450

EDU conversion

One EDU 230 gallons per day (GPD)

One EDU 19 equivalent fixture units (EFUs)

The following rates of flow for various land uses shall be utilized in determining the total fee due for any given property:

Residential

Single family dwelling1.00 EDU

Mobile home, trailer.....0.79 EDU

Multi-family units, incl. apartments0.79 EDU/unit

Greywater system fee reduction25%

RV Parks

RV parks, per hookup0.79 EDU

RV parks, facilities not serving hookupsby EFU

Restaurant

Small (<= 12 seats) 1.1 EDU

Large (>12 seats)25 GPD/seat

Carwash

Self-serve.....	2 EDU/stall
Automatic, w/ water recycling.....	6.5 EDU
Automatic, w/o water recycling.....	by EFU

Transient/Temporary Residence Facility

Hotel, motel, inn, boarding house.....	by EFU
Convalescent hospital, hospital	by EFU
Dormitories & other temporary residences.....	by EFU

Self Service Laundry, Coin Operated

Laundry, per washer	0.50 EDU
Fixtures not attached to washers	by EFU

Other

Government, Institutional.....	by EFU
Commercial, Industrial	by EFU
Manufacturing, Tenant Improvement.....	by EFU
All other uses not described above	by EFU

See Master Fee Schedule Bulletin 12-300 for Equivalent Fixture Unit (EFU) factors.

Facilities with water recycling systems or using water for processing purposes shall be assessed individually.”

C. That Chapter 12 - Sewer Fees – Appendices & Reference – Section 12-300 - Equivalent Fixture Units (EFUs), be amended to read as follows:

“EQUIVALENT FIXTURE UNITS (EFUS)

Equivalent Fixture Units include combined hot and cold water demand.

Bar sink (commercial).....	2 EFU
Bathtub.....	2 EFU
Dental unit or cuspidor	1 EFU
Drinking fountain, per head	0.5 EFU
Laundry tub or clothes washer.....	3 EFU
Lavatory	1 EFU
Lavatory (dental)	1 EFU
Sink (mop basin)	3 EFU
Sink (washup, each set of faucets).....	2 EFU
Sink or dishwasher	2 EFU
Urinal (flush tank)	2 EFU
Urinal (stall)	2 EFU
Urinal (wall).....	2 EFU
Toilet (tank)	4 EFU
Toilet (valve)	4 EFU

1. EDU calculation using EFUs

EFU (above) x 12.1 GPD / 230 GPD = 1 EDU”

D. That Sections 3-301.1 – Sewage Production, and 3-301.2 – Pipe Design Capacity Based on Manning’s Flow Equation, of the Subdivision Manual be amended to read as follows:

“3-301.1 Sewage production

- (1) Residential = 63 gallons (240 lpcd) per capita per day (gpcd) or 230 gallons (870 liters) per EDU, per day.
- (2) School flow:
 - a) Elementary Schools: 12 gpcd (46 lpcd).
 - b) Junior High and High Schools: 13 gpcd (50 lpcd).
- (3) Commercial/Industrial/Church: 1,401/712/1,313 gpd/acre.
- (4) Parks: 410 gpd/acre.
- (5) Peak to average ratio: See CVDS 18.

3-301.2 Pipe design capacity based on Manning's flow equation:

- (1) New Pipes use 1/2 full design flow for diameters up to and including 12 inches.
- (2) New Pipes use 3/4 full design flow for diameters greater than 12 inches (30cm).
- (3) "n" factors
 - a) for vitrified clay or reinforced concrete pipe:
 - 1) n = 0.013 for pipes up to 21" (53cm) diameter;
 - 2) n = 0.012 for pipes greater than 21" (53cm) diameter;
 - b) for PVC pipe, n = 0.012 for PVC pipe all sizes.
- (4) Velocities:
 - a) Minimum = 2 feet/second (.61m/s). See Section 3-302.2(6) also.
 - b) Maximum = 10 feet/second (3.0m/s) (except as approved by City Engineer).”

Section IV. Time Limit for Protest and Judicial Action.

Any judicial action or proceeding to attack, review, set aside, void or annul this ordinance shall be brought within the period as established by law.

In accordance with Government Code Section 66020(d)(1), the ninety-day approval period in which parties may protest beginning upon the effective date of this ordinance.

Section V. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or

unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section VI. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section VII. Effective Date

This Ordinance shall become effective sixty (60) days after its second reading and adoption.

Section VIII. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Richard A. Hopkins
Director of Public Works

Glen R. Googins
City Attorney