



City of San Leandro

Meeting Date: March 20, 2017

Staff Report

File Number: 17-115 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.E.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Debbie Pollart
Public Works Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for Resolution and Ordinance Establishing a Wastewater Fee Structure to Comply with New Accessory Dwelling Unit State Law and Zoning Code Changes

SUMMARY AND RECOMMENDATIONS

To comply with requirements imposed by new California Accessory Dwelling Unit (ADU) laws, the Water Pollution Control Plant needs to establish new definitions and fee structures to ensure equitable assessment of wastewater fees and charges. Staff recommends that the City Council:

- Approve a Resolution to amend San Leandro Administrative Code, Title 12, Chapter 5, Uniform Wastewater Discharge Regulations; and
- Adopt an Ordinance to amend San Leandro Municipal Code, Title 3, Chapter 14, Uniform Wastewater Discharge Regulations, Article 2, Definitions.

BACKGROUND

The California Legislature recently amended State law to declare that ADUs in single family and multifamily zones are essential to address the State housing shortage. Consequently, the Legislature passed two new laws that took effect January 1, 2017 to lower barriers to development of ADUs. Those barriers include existing sewer fees and charges.

It is Water Pollution Control Enterprise Fund policy to develop user charges that ensure equity among ratepayers. In December 2007, the City entered into an agreement with Municipal Financial Services for the development and evaluation of wastewater rates and capacity charges. The evaluation's objectives were to calculate wastewater rates and capacity charges to adequately fund sewer utility operations, maintenance, capital replacement expenditures, debt service obligations, keeping rates as competitive as possible, and maintaining a prudent level of reserves. In addition, the City wanted to modify the complex methodology of the previous rates. The Wastewater Rates Study and Wastewater Capacity Charges Study were

completed in April 2010. They provide the methodology whereby the Water Pollution Control Plant ensures equitable allocation of wastewater fees and charges among system users.

Analysis

Capacity charges, previously referred to as connection fees, were developed using the wastewater system replacement value, the design capacity of the wastewater system and a basis for allocation of costs among the functional costs categories of flow, BOD (Biochemical Oxygen Demand) and SS (Suspended Solids). Functional cost categories enables proportionate allocation of costs to facilities based on additional impact to sewer facilities, whether there is a new pipe connection or not. Among residential users, there were two capacity charge categories developed by the study: the Single Family Residential rate and the Multiple Family Residential rate, which applies to properties with three or more independent living units located on the same parcel. Current multi-family capacity charges are flat, per unit fees, regardless of the square footage of the unit or number of people housed in each unit. Single-family charges are also a flat fee, and do not take into account the number of bedrooms or bathrooms in the unit. This is consistent with the practice of many other California sanitary authorities.

The new State law stipulates that an Accessory Dwelling Unit (ADU) located within the building envelope of an existing structure should pay no capacity charge, regardless of impact on the sewer system. However, for both attached and detached ADUs, and to ensure fair and equitable allocation of fees and charges, the City plans to apply the multi-family rate to ADUs. This would comply with State law that provides ADU charges should be less than single family residential for capacity charges and sewer service fees.

To implement these charges, the City Council should amend San Leandro Administrative Code, Title 12, Chapter 5, Uniform Wastewater Discharge Regulations, to assess fees on ADUs, which are essentially a new category of residential unit. San Leandro Municipal Code Title 3, Chapter 14 “definitions” should be updated as well as the City Fee Schedule. Staff plans to propose corresponding amendments to the City Fee Schedule as part of the budget review process. If approved, the new fees will take effect July 1, 2017.

Applicable General Plan Policies

Policy CSF-6.1 Development Impacts. Permit new development only when infrastructure and utilities can be provided to that development without diminishing the quality of service provided to the rest of the City.

Policy CSF-6.2 Fair Share Costs. Require future development to pay its fair share of the cost of improving the water, sewer, storm drainage, and other infrastructure systems needed to serve that development. Development impact fees, development agreements, and other appropriate forms of mitigation should be used to cover the costs of upgrading or expanding public infrastructure.

Action CSF-6.2.A: Infrastructure Impact Fee and Rate Updates Regularly update fees and rates for sewer, solid waste, and other public services to ensure that revenues are sufficient to cover operating and maintenance costs.

Environmental Review

Environmental Review is not required because changes to these fees will not have an effect on the environment.

Fiscal Impacts

These new fees and charges assessed will benefit the Water Pollution Control Plant Enterprise Fund.

Budget Authority

No funds will be required. Staff plans to propose amendments to the Fee Schedule for these additional charges as part of the budget review process. If approved, the new fees will take effect July 1, 2017.

ATTACHMENT(S)

Attachment(s) to Related Legislative File

- San Leandro Administrative Code, Title 12, Chapter 5, Uniform Wastewater Discharge Regulations, amended copy

PREPARED BY: Judy Walker, Water Resources Management Analyst, Water Pollution Control Division



City of San Leandro

Meeting Date: March 20, 2017

Ordinance

File Number: 17-116 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Debbie Pollart
Public Works Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: ORDINANCE Amending Title 3, Chapter 14 of the San Leandro Municipal Code to Establish a Wastewater Fee Category to Comply with New Accessory Dwelling Unit State Laws

The City Council of the City of San Leandro does **ORDAIN** as follows:

SECTION 1. PURPOSE. The Uniform Wastewater Discharge Regulations section of the Municipal Code is amended to include the definition for an Accessory Dwelling Unit, upon which to apply sewer fees and charges.

SECTION 2. AMENDMENT OF CODE. Title 3, Chapter 14, Article 2 of the San Leandro Municipal Code is hereby amended to add the following definition:

(a) **Accessory Dwelling Unit.** An Accessory Dwelling Unit (ADU) is a secondary dwelling unit built on a parcel with an existing Single-Family Dwelling with complete independent living facilities for one or more persons. An ADU can take three forms: detached structure, attached structure, repurposed existing space. For the purposes of this Code, there can be only one ADU per parcel, and the existence of an ADU does not change the status of the Single-Family Dwelling. If more than one ADU is created on the lot, all ADUs convert to Single-Family Dwellings.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections,

subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.



City of San Leandro

Meeting Date: March 20, 2017

Resolution - Council

File Number: 17-117 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Debbie Pollart
Public Works Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION Amending Title 12, Chapter 5 of the San Leandro
Administrative Code Relating to Uniform Wastewater Discharge Regulations

WHEREAS, the Water Pollution Control Enterprise Fund rate setting objectives are to adequately fund sewer utility operations, maintenance, capital replacement and debt service obligations, while keeping rates as competitive as possible and maintaining a prudent level of reserves; and

WHEREAS, the City uses methodology from a Wastewater Rate Study and a Wastewater Capacity Charge Study to ensure equitable allocations among customer classifications; and

WHEREAS, new State Laws require the creation of a new fee category for Accessory Dwelling Units in the Residential classification.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. That Title 12, Chapter 5 of the San Leandro Administrative Code, Uniform Wastewater Discharge Regulations, is hereby amended as shown in the attached Exhibit A, which is incorporated herein and a made a part of this Resolution. .

2. That the amendments established by this Resolution shall take effect on July 1, 2017.

Chapter 5 Uniform Wastewater Discharge Regulations

§12.5.100: DEFINITIONS.

The following definitions and the definitions contained in Title 3, Chapter ~~15~~ **14** of the San Leandro Municipal Code, shall govern the construction of this Chapter.

- (a) **Accessory Dwelling Unit.** **An Accessory Dwelling Unit (ADU) is a secondary dwelling unit built on a parcel with an existing Single-Family Dwelling with complete independent living facilities for one or more persons. An ADU can take three forms: detached structure, attached structure, repurposed existing space. For the purposes of this Code, there can be only one ADU per parcel, and the existence of an ADU does not change the status of the Single-Family Dwelling. If more than one ADU is created on the lot, all ADUs convert to Single-Family Dwellings.**
- (ab) **Billable Parameters.** Those parameters (i.e., flow, BOD, SS, Volume, I/I) for which the treatment works is designed to treat and for which average user charge unit costs of service are calculated.
- (bc) **BOD.** The biochemical oxygen demand (BOD) is a laboratory test in which standardized procedures are used to determine the oxygen requirements of wastewater. The BOD test measures the oxygen required for the biochemical degradation of organic material. The test results represent the average BOD strength of wastewater discharged during a given period.
- (ed) **Capacity Rights.** The flow, BOD and SS capacity purchase by a user upon obtaining a connection permit, or, if such data are not available, the peak month loadings of a user during the past five fiscal years or some prior year when it can be shown to the satisfaction of the Manager that some prior year's peak month loadings are more representative of a user's use of the wastewater system than occurred over the five year period.
- (de) **Commercial User.** Any non-residential user, including business activity that is not otherwise classified, and that the Manager determines introduces into the sanitary sewer system primarily segregated domestic waste or wastes from sanitary conveniences.
- (ef) **Compliance User.** An industrial user which is monitored to determine compliance with both the Federal regulations of the Clean Water Act and the City's local wastewater discharge ordinance.
- (fg) **Industrial User.** Any non-residential user who discharges industrial wastes and is identified in the Standard Industrial Classification Manual, 1987, Office of Management and Budget, as now or hereafter amended or supplemented under, but not limited to, the following division:
 - (1) **Division A.** Agriculture, Forestry, Fishing

- (2) Division B. Mining
 - (3) Division C. Manufacturing
 - (4) Division E. Transportation, Communications, Electric, Gas, and Sanitary Services
 - (5) Division I. Services
- (gh) **Industrial Wastes.** The wastes from industrial processes.
 - (hi) **Institutional Users.** Schools, hospitals, and government facilities.
 - (ij) **Flow.** The volume of wastewater occurring over time.
 - (jk) **Large User.** An industrial user or a non-residential user discharging industrial quantities of flow, BOD, and/or Suspended Solids as determined by the Manager.
 - (kl) **Manager.** The San Leandro City Manager or designee.
 - (lm) **MGD.** Million gallons per day.
 - (mn) **Multiple-Family Dwelling Unit.** Any residential unit designed to house one family in a building containing more than two such units, including triplexes, quadplexes, and apartments. For the purpose of this Code, mobile homes located in a mobile home park shall be considered multiple-family dwellings.
 - (no) **Normal Work Days.** Except as provided below, normal work days shall be defined as the normal 5-day work week of Monday through Friday less holidays. For User's normal work days to exceed 5 days a week, the flow from the sixth and/or seventh day must approximate the average daily flow of the 5-day work week.
 - (op) **Residential Discharge Equivalency.** A unit of discharge equal in volume and strength to the design discharge of a single-family dwelling unit, as determined in the most recent ~~biennial~~ rate study.
 - (pq) **Residential User.** Any user introducing into the sewerage system domestic wastes from single-family, **accessory** or multiple-family dwellings.
 - (qr) **Schools.** Any public or private institutions of learning that introduce into the City's sewerage system primarily segregated domestic waste or wastes from sanitary conveniences.
 - (rs) **Service User.** An industrial user or a non-residential user whose wastewater discharge is monitored in order to determine flow, BOD, and/or SS.

- (st) **Single-Family Dwelling.** Any residential unit designed to house one family and not herein defined as multiple-family; duplexes and mobile homes not located in mobile home parks and condominiums shall be considered single-family.
- (tu) **SS (Suspended Solids).** Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are largely removable by laboratory filtration procedures.
- (uv) **User.** A discharge of wastewater to the sanitary sewer system.
- (vw) **User Charge.** A charge levied on a user of the sewage system which recovers operation and maintenance expenses and capital costs in proportion to the cost of service.
- (wx) **Volume.** The wastewater flow occurring over a specified period of time.
- (xy) **Violation Follow-up Monitoring.** Wastewater discharge monitoring for an industrial user or a non-resident user whose wastewater discharge has exceeded wastewater discharge limitations.

§12.5.105: CLASSIFICATION OF USERS.

The user is the occupant or intended occupant or activity for which a connection is made to convey wastewater to the sanitary sewer system. The classifications of users shall be:

- (a) **Classification A.** Residential dwelling units; includes single-family dwelling units (detached units; duplexes, condominiums), **accessory dwelling units** and multiple-family dwelling units (triplexes, quadplexes, apartments, mobile home parks).
- (b) **Classification B.** All general commercial, industrial, and institutional establishments from which only sewage is discharged.
- (c) **Classification C.** All non-residential establishments whose wastewater discharge contains all or partly non-sewage water, and who are identified in the Standard Industrial Classification Manual (SIC) Manual, 1987, U.S. Office of Management and Budget as amended and supplemented.

§12.5.110: USER CHARGES.

Every user shall pay the following monthly sewer use charge, but in no case shall the total charge be less than the effective rate for a multiple-family dwelling unit.

- (a) **For Classification A Users.** The user charge shall be as listed in San Leandro Administrative Code §6.4.100. The charge shall be based upon a flat rate determined by the methods described in these Uniform Wastewater Discharge Regulations per single-family dwelling unit, **accessory dwelling unit or** ~~and~~ multiple-family dwelling unit.
- (b) **For Classification B Users.** The user charge shall be as listed in San Leandro Administrative Code §6.4.100. The charge shall be based upon the volume of water used

as determined by the methods described in these Uniform Wastewater Discharge Regulations.

- (c) **For Classification C Users.** Industrial and other large users shall be assessed user charges based on measured discharges of wastewater flow, BOD, and SS. Such measurement shall be obtained from monitoring facilities installed on private property at the points of discharge to the sewer system, unless another location is approved by the Manager. Both installation and operating costs of the monitoring facilities shall be at the sole expense of the user. Frequency of monitoring shall be determined by the Manager. Sampling and testing shall be performed by City staff and shall be paid for by the user in accordance with San Leandro Administrative Code §6.4.100. In the event that City staff are unable to take samples and make tests during a billing period, an average of the test results for the prior twelve month period shall be used to estimate BOD and SS discharges for the billing period. The Manager shall have the discretion of not using an unusually high measurement if it is judged to be unrepresentative of a user's long-term use of the wastewater system and/or can be explained by a one-time event.

§12.5.115: CONNECTION CAPACITY FEES.

- (a) Any person (whether a new or existing user) who installs new or additional fixtures, equipment, processes or devices, including provisions for future installation, which will add (either in fact or potential) wastewater load to the sanitary sewer system shall pay to the City a "~~Connection~~ **Capacity** Fee" as determined by the conditions and formula hereinafter enumerated. No plumbing permit shall be issued nor shall any connection be made to the sanitary sewer system until the applicable ~~connection~~ **capacity** fee has been paid.
- (b) The ~~connection~~ **capacity** fee for residential dwelling units shall be the appropriate unit cost as listed in San Leandro Administrative Code §6.4.100.

The ~~connection~~ **capacity** fee for converting an existing apartment building to condominium units shall be as listed in San Leandro Administrative Code §6.4.100. Non-residential users shall be assessed ~~connection~~ **capacity** fees based on the estimated average day of their peak month discharge according to the unit cost schedule as listed in San Leandro Administrative Code §6.4.100, but in no case shall the fee for a new connection be less than the single-family Residential discharge equivalency.

- (c) A ~~connection~~ **capacity** fee adjustment shall be made at the end of one year of service for all non-residential users to reflect the actual wastewater discharge based on monitored wastewater discharged or metered water usage adjusted for volume not discharged to the sanitary sewer system. If the estimated wastewater discharge is low, an additional ~~connection~~ **capacity** fee shall be assessed. If the estimated wastewater discharge is high, the City shall issue a refund to the user.

- (d) The City reserves the right to make an additional ~~connection~~ **capacity** fee assessment for an existing sewer connection if the peak month flow or strength of discharge is increased above that flow or strength upon which the original ~~connection~~ **capacity** fee was based.
- (e) ~~Connection~~ **Capacity** fee receipts shall be deposited into a separate reserve account to be used for future treatment facility expansion projects, or if no future expansion is required, these funds may be used to finance other treatment facility improvement projects or to retire the ~~General~~ **State Revolving** Fund Loan.
- (f) Each sewer permit issued as herein provided, and the right to a sewer connection pursuant to any such sewer permit so issued, shall run with the land, and shall not be transferred to, or used for, any other property other than the property for which the sewer permit was originally issued.
- (g) All sewer rates, charges, and fees as herein provided shall be non-refundable.
- ~~(h) Reference is made to the City's "Procedures and Policies for Sewer Connection Fees" on file with the City Clerk and incorporated herein by this reference.~~
- ~~(i) The Sanitary Sewer Connection Capacity Fee shall be modified each July 1st by an amount **less than or** equal to either the amount shown in the Wastewater Capacity Charge Study (2010) or the percentage change in the Consumer Price Index (CPI) for the San Francisco Bay Area as published by United States Department of Labor Bureau of Labor Statistics from the preceding one-year period, whichever is greater.~~

§12.5.120: WASTEWATER DISCHARGE PERMITS.

- (a) Reference is made to the Title 3, Chapter 14, Uniform Wastewater Discharge Regulations, of the San Leandro Municipal Code. All references herein to "Regulations" shall be to the aforementioned regulations.
- (b) The Regulations require that Major Contributing Industries, as defined in Section 3-14-200 of the Regulations, connected to or discharging into the City sewer must obtain a Pretreatment Permit.
- (c) Section 3-14-520 of the Regulations lists standard permit conditions.
- (d) Applications for the Pretreatment Permit will be kept on file by the City. Major Contributing Users shall be issued a permit upon completion of the application.
- (e) Upon receipt of the completed application, City staff will schedule an inspection of each applicant's facility. This will verify and complete the information provided on the application.
- (f) Upon issuance or renewal of the permit, a permit fee as set forth in San Leandro Administrative Code § 6.4.100 shall be charged.

- (g) A condition of any Pretreatment Permit shall be the requirement that the permittee pretreat the wastewater to acceptable limits for conventional pollutants, as described in applicable Federal, State and/or City regulations.

Legislative History:

Resolution No. 82-128, 06/21/1982 [§§12.5.100-12.5.115]; Resolution No. 82-262, 10/04/1982 [§§12.5.100-12.5.115]; Resolution No. 83-113, 06/20/1983 [§§12.5.100-12.5.115]; Resolution No. 85-115, 06/24/1985 [§§12.5.100-12.5.115]; Administrative Order, 09/17/1985 [§12.5.115]; Resolution No. 87-108, 06/15/1987 [§§12.5.100-12.5.120]; Resolution No. 89-122, 06/19/1989 [§§12.5.100-12.5.120]; Resolution No. 91-111, 06/17/1991 [§§12.5.100-12.5.120]; Resolution No. 93-161, 07/16/1993 [§§12.5.100-12.5.120]; Resolution No. 95-108, 06/12/1995 [§§12.5.100-12.5.120]; Resolution No. 98-85, 08/17/1998 [§§12.5.100-12.5.120]; Resolution No. 2000-78, 06/05/2000 [§12.5.100(e)]; Resolution No. 2001-48, 03/05/2001 [§§12.5.100-12.5.120]; Resolution No. 2002-95, 07/01/2002 [§§12.5.100-12.5.120]; Resolution No. 2003-114, 05/19/2003 [§§12.5.100-12.5.120]; Resolution No. 2005-156, 11/21/2005 [§12.5.120]; Resolution No. 2006-042, 05/01/2006 [§§12.5.110-12.5.115]; Resolution No. 2010-071, 06/21/2010 [§12.5.100; §12.5.110]; Resolution No. 2011-159, 09/06/2011 [§12-5-115(i)]