

## ORDINANCE No.16

### ORDINANCE AND ORDER OF THE GOVERNING BOARD OF THE CARPINTERIA SANITARY DISTRICT ADOPTING A GENERAL REGULATION PERTAINING TO DEVELOPMENT IMPACT FEES AND REPEAL OF INCONSISTENT ORDINANCES

Be It Ordained By The Governing Board Of The  
Carpinteria Sanitary District  
As Follows:

#### RECITALS

**WHEREAS**, the basic statutory standards governing sewer connection fees, or Development Impact Fees, are embodied in California Government Code Sections 66013 et seq. (The Mitigation Fee Act) which requires that connection fees must be based on an estimate of the reasonable cost of providing capacity;

**WHEREAS**, the primary objectives of establishing full cost recovery Development Impact Fees are to achieve equity in distributing costs and to provide a mechanism by which new users can pay for the cost of the facilities required to serve them without burdening existing users;

**WHEREAS**, the purposes of this ordinance are to set forth a baseline Development Impact Fee structure for the Carpinteria Sanitary District and to repeal prior ordinances, and portions thereof, that are inconsistent, contrary or no longer applicable.

**NOW, THEREFORE, BE IT ADOPTED** as follows:

#### ARTICLE I General Provisions

**Section 1. Purpose.** The purpose of this Ordinance is to prescribe fees for connecting to or expanding the use of sewerage facilities owned and operated by the Carpinteria Sanitary District (as distinguished from the sewer service charges assessed annually for ongoing use of said facilities).

**Section 2. Application.** This Ordinance shall apply to any person or persons, including corporations, partnerships, governmental entities, non-profit organizations and others who propose to connect to the Carpinteria Sanitary District sewerage facilities or expand the use thereof.

**Section 3. Severability.** If any portion of this Ordinance or the application thereof is held to be unconstitutional or for any reason invalid, the validity of all remaining portions and application shall be unaffected, and they shall remain in full force.

**ARTICLE II**  
**Development Impact Fee**

**Section 1. Development Impact Fee Determination.** The District commissioned a Wastewater Rates and Fees Study Report, dated March 2017, that establishes a baseline Development Impact Fee, or connection fee, of \$ 4,600 per new equivalent dwelling unit (EDU).

An EDU shall be defined as the baseline wastewater flow and strength contribution from a single-family residential dwelling. For the purposes of this ordinance, it is presumed that a single-family residential dwelling discharges 142 gallons per day of wastewater with a biochemical oxygen demand (BOD) concentration equal to 325 milligrams per liter and a total suspended solids (TSS) concentration equal to 325 milligrams per liter. The contributions from other users can be represented in the form of an equivalency to one single-family residential dwelling unit.

A system buy-in approach is the basis for determining the Development Impact Fee, where new users are required to pay a fixed cost per dwelling unit that puts them in equal fiscal standing with existing users of the system. This approach considers the replacement cost of existing assets, less depreciation (RCLD), as well as current reserve balances and debt obligations. A cost per EDU is determined as follows:

Total Assets	\$	39,762,472
Plus: Total Reserves	\$	6,672,995
Less: Outstanding Debt	\$	<u>(10,990,000)</u>
Total Buy-In Cost	\$	35,445,467
Total Flow (gpd)		1,096,583
Cost per gallon per day	\$	32.32
Residential Flow per EDU (gpd)		142
<b>Development Impact Fee per EDU</b>	<b>\$</b>	<b>4,600</b>

**Section 2. Calculation of Development Impact Fee For New Users.** The Development Impact Fee for each new residential connection is calculated by multiplying the number of new equivalent dwelling units (or EDUs) times the Development Impact Fee per EDU. Development Impact Fees for new non-residential customers will be calculated on an EDU basis according to the following formula:

$$\text{Development Impact Fee} = \text{EDU Factor} \times \$ 4,600$$

Where the EDU Factor is determined using the following formula:

$$\text{EDU Factor} = \left[ \frac{\text{Flow}}{142 \text{ gpd}} \times 70\% \right] + \left[ \frac{\text{BOD}}{325 \text{ mg/L}} \times 15\% \right] + \left[ \frac{\text{TSS}}{325 \text{ mg/L}} \times 15\% \right]$$

WHERE: Flow = flow rate in gallons per day (GPD)  
BOD = biochemical oxygen demand concentration in mg/L  
TSS = total suspended solids concentration in mg/L

The District shall estimate Flow, BOD and TSS values for proposed non-residential connections using industry-standard methods, based on square footage of developed area, flow rates for similar uses, and published wastewater strength values. The calculated Development Impact Fee shall be the fee which is charged and which must be paid by the applicant prior to the issuance of a permit to connect to the District's sewerage facilities as required by Ordinance No. 2.

**Section 3. Calculation of Incremental Development Impact Fees for Expanded Use.**

In the event that an existing residential customer adds one or more EDUs to a previously developed parcel that is connected to the District sewerage facilities, an applicable Development Impact Fee shall be paid for each new EDU.

In the event that an existing non-residential customer expands the size of an existing commercial building or structure that is connected to the District sewerage facilities, an applicable Development Impact Fee shall be paid. The District shall calculate an EDU Factor for the expansion area and determine the applicable Development Impact Fee in accordance with Section 2 of this Article.

**Section 4. Provisions for Development Impact Fee Adjustment.** At a minimum, the Development Impact Fee specified in Section 1 of Article II will be adjusted and become effective on the first day of July for each succeeding calendar year based upon the change in the Engineering News Record Construction Cost Index (ENR-CCI, 20 City Index) for the prior calendar year. Current Development Impact Fee values shall be made available at the District offices and published on the District website.

**ARTICLE III**  
**Charge Does Not Exceed Costs**

**Section 1. Government Code Compliance.** Pursuant to Government Code Section 66013, this Governing Board finds and determines that the Development Impact Fee (capacity charge) as set forth in this Ordinance does not exceed the estimated reasonable cost of providing the service for which the Development Impact Fee is imposed. The Governing Board further finds that the Development Impact Fee is a "capacity charge" within the meaning of Government Code Section 66013, that the Fee is not levied for general revenue purposes, and that District's deposit and expenditure of Fees collected pursuant to this ordinance shall be in accordance with Government Code Section 66013.

Pursuant to Government Code Section 66016, at least 10 days prior to the meeting at which this Ordinance was adopted, there was made available to the public for inspection, at the District office, data indicating the amount of cost, or estimated cost, required to provide the service for which the charges, rates and fees are levied and the revenue sources anticipated to provide the service, including general fund revenues. Supporting data that comprise the basis for the Development Impact Fee is found in a report entitled *Wastewater Rates and Fees Study Report, March 2017*. A copy of said report has been made available to the public and was published on the District website on or before May 20, 2017.

**Section 2. Compliance With Government Code.** In its adoption of this Ordinance, the District observed the provisions of Government Code Sections 66016, 66018 and 6062a.

#### **ARTICLE IV** **Relief**

**Section 1. Application For Relief.** Any person who, by reason of special circumstances, believes that the provisions of this Ordinance are inequitable in their application to a specific new connection or expanded use may apply, in writing, to the Board of Directors, setting forth the special circumstances and inequitable application alleged, and requesting relief from the cited provisions.

Upon receipt of such application, the Board shall hold a hearing in which the burden shall be on the applicant to produce competent evidence of the special circumstances and alleged inequitable allocation of the fee, justifying the relief sought. The Board may consider other evidence, including all information supplied by District staff. Upon completion of the hearing, the Board shall weigh all of the evidence presented and make a determination, including a finding that substantial evidence exists for the granting or denial of the application for relief. The Board shall have sole discretion in weighing the evidence and in making such determination, and the decision of the Board shall be final.

Any judicial challenge to a decision made by the Board pursuant to this Section shall be filed within thirty (30) days of the Board's decision. Such action shall be subject to Code of Civil Procedure Section 1094.5.

#### **ARTICLE V** **Repeal of Prior Ordinances**

**Section 1. Repeal of Ordinance No. 13.** Ordinance No. 13 is hereby repealed in its entirety.

**Section 2. Ordinance No. 2: No Intended Repeal.** All provisions of Ordinance No. 2 dated October 2, 1975, which are not inconsistent with or contrary to the terms of this Ordinance shall remain unchanged and in full force and effect.

**ARTICLE VI**  
**Publication and Effective Date**

**Section 1. Publication** This Ordinance shall be published one time as required by Section 6490 of the Health and Safety Code and shall be effective as of the expiration of the week of publication as established either by a Proof of Publication from the newspaper in which this Ordinance was published, or by a subsequent Order of the Governing Board that publication has been properly made.

**Section 2. Judicial Challenge.** Any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be commenced within the time and manner set forth in Government Code Section 66022.

**PASSED AND ADOPTED** by the Governing Board of CARPINTERIA SANITARY DISTRICT this 6<sup>th</sup> day of June 2017 by the following vote:

AYES: Moorhouse, Damron, Modugno, Velasco

NAYS: \_\_\_\_\_ None

ABSENT: Graf



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Mike Modugno, President Pro Tem  
Board of Directors  
CARPINTERIA SANITARY DISTRICT

ATTEST:



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Michael Damron, Secretary  
Board of Directors  
CARPINTERIA SANITARY DISTRICT

I, Michael Damron, Secretary of the CARPINTERIA SANITARY DISTRICT, hereby certify that the foregoing is a true copy of Ordinance No. 16 duly and legally adopted by the Governing Board of the District at a legal meeting of said body duly and specially held on June 6, 2017.

DATE CERTIFIED: June 6, 2017