

ORDINANCE No.18

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

The Governing Board Of The
Carpinteria Sanitary District does ordain
As Follows:

SECTION 1: *Recitals.* The Board of Directors finds and declares as follows:

- A. The basic statutory standards governing wastewater connection fees, or Development Impact Fees, are embodied in California Government Code §§ 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;
- B. 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;
- C. The Board is mindful of the constitutional limitations and restrictions verified by cases such as *City of Monterey v. Del Monte Dunes at Monterey, Ltd., et al.* (1999) 526 U.S. 687, *Dolan v. City of Tigard* (1994) 512 U.S. 374, *Nolan v. Cal. Coastal Comm'n* (1987) 483 U.S. 825, and *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854. This Ordinance is intended to, and does, comply with such constitutional limitations;
- D. The purposes of this ordinance are to set forth a baseline Development Impact Fee structure for the Carpinteria Sanitary District.

ARTICLE I General Provisions

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

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

ARTICLE II
Development Impact Fee

Section 1. Development Impact Fee Determination. The report entitled “*Wastewater Rates and Fees Study Report*” dated March 2022 (as may be revised from time to time) sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs for additional capital facilities in the District’s jurisdiction (the “Report”). The Report establishes a baseline Development Impact Fee, or connection fee, of **\$6,230** per new equivalent dwelling unit (EDU).

An EDU is 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 350 milligrams per liter and a total suspended solids (TSS) concentration equal to 300 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	\$	50,987,174
Plus: Total Reserves	\$	6,264,224
Less: Outstanding Debt	\$	<u>(10,748,000)</u>
Total Buy-In Cost	\$	46,503,398
Total Flow (gpd)		1,061,029
Cost per gallon per day	\$	43.83
Residential Flow per EDU (gpd)		142
Development Impact Fee per EDU	\$	6,230

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:

$$\text{Development Impact Fee} = \text{EDU Factor} \times \$6,230$$

Where the EDU Factor is determined using the following formula:

$$\text{EDU Factor} = \left[\frac{\text{Flow}}{142 \text{ gpd}} \times 70\% \right] + \left[\frac{\text{BOD}}{350 \text{ mg/L}} \times 15\% \right] + \left[\frac{\text{TSS}}{300 \text{ mg/L}} \times 15\% \right]$$

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 must 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 is the fee which is charged and which must be paid by the applicant before the District issues a permit to connect to the District's wastewater 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 wastewater 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 wastewater facilities, an applicable Development Impact Fee must be paid. The District must 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 must be made available at the District offices and published on the District website.

Section 5. Accessory Dwelling Units. The District will comply with applicable California law regarding the limitation or prohibition on imposing Development Impact Fees upon Junior Accessory Dwelling Units (“JADU”) or Accessory Dwelling Units (“ADU”). Each person seeking a reduction or waiver of the Development Impact Fee imposed by this Ordinance must submit substantial evidence to the District’s General Manager demonstrating that such JADU or ADU is exempt, either partially or completely, from the Development Impact Fees under this Ordinance.

ARTICLE III
Charge Does Not Exceed Costs

Section 1. Government Code Compliance. Pursuant to Government Code §§ 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 §§ 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 are in accordance with Government Code §§ 66013.

Pursuant to Government Code §§ 66016, at least 10 days before 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 2022*. A copy of said report was made available to the public and was published on the District website on or before May 20, 2022.

Section 2. Compliance With Government Code. When adopting this Ordinance, the District observed the provisions of Government Code §§ 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.

All protests, appeals, and audits must be conducted in accordance with the procedures contained in the Mitigation Fee Act (commencing at Government Code §§ 66020, *et seq.*)

Any judicial challenge to a decision made by the Board pursuant to this Section must be filed within 90 days of the Board's decision. Such action is subject to Code of Civil Procedure §§ 1094.5.

ARTICLE V
Supersession of Previous Ordinance

Section 1. Repeal of Ordinance No. 16. Ordinance No. 16 is superseded in its entirety.

Section 2. Effectiveness of Other Charges and Fees. This Ordinance establishes the methods for establishing and imposing Development Impact Fees only; it does not affect any other previously established charges or other administrative fees. To the extent any provision of this Ordinance supersedes previously established Development Impact Fees, or procedures related to such Development Impact Fees, such replacement does not affect any other charge, fee, penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance’s effective date. Any such part of previous approvals remains in full force and effect.

Section 3. 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 remain unchanged and in full force and effect.

ARTICLE VI **Publication and Effective Date**

Section 1. Publication. This Ordinance will be published one time as required by Section 6490 of the Health and Safety Code and becomes 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 was 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 §§ 66022.

Section 3. CEQA. This Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes fees and charges for the purpose of obtaining funds for capital projects necessary to maintain service within existing service areas. This Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines § 15273.

Section 4. Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the Governing Board intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

Section 5. Validity of Previous Code Sections. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any supersession of a regulation by this Ordinance will be rendered void and cause such superseded provision or other regulation to remain in full force and effect for all purposes.

PASSED AND ADOPTED by the Governing Board of CARPINTERIA SANITARY DISTRICT this 7th day of June 2022 by the following vote:

AYES:

NAYS:

ABSENT:

Lin Graf, President
Board of Directors
CARPINTERIA SANITARY DISTRICT

ATTEST:

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. 18 duly and legally adopted by the Governing Board of the District at a legal meeting of said body duly and specially held on June 7, 2022.

DATE CERTIFIED: June 7, 2022