



DATE: February 17, 2015

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT: Sewer Connection Fees: Introduction of Ordinance amending Hayward Municipal Code Section 11-3.255 Related to Sewer Connection Fees for Existing Uses

Attachment 1 to item 8 in tonight's agenda packet inadvertently did not show the proposed changes indicated in redline. Attached is a marked up version of the proposed ordinance amending Chapter 11, Article 3, Section 11-3.255 of the Hayward Municipal Code related to sewer system connection fees.

In addition, this item was initially scheduled for the Council meeting on February 3, and indicated adoption of the Ordinance to amend the Municipal Code on February 17. Subsequently the item was moved to tonight's meeting, but the date shown for ordinance adoption remained unchanged. The ordinance will be scheduled for adoption on a subsequent Council meeting after Council action this evening.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3,
SECTION 11-3.255 OF THE HAYWARD MUNICIPAL CODE
RELATING TO SEWER SYSTEM CONNECTION FEES

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD
DOES ORDAIN AS FOLLOWS:

Upon adoption of this Ordinance, Article 11, Chapter 3, Section 11-3.255 of the Hayward Municipal Code, relating to Sewer System Connection Fees, is hereby amended to read as follows:

SEC. 11-3.255 SEWER SYSTEM CONNECTION FEES

- (a) Authority to Assess Connection Fees. Any customer (new or existing) of the municipal sanitary sewer system who installs new or additional fixtures, processes, or equipment, or otherwise causes an increase in wastewater discharge into the City sewer, is required to pay to the City a sewer connection fee. No connection shall be made to the sewer system, and no increase in wastewater discharge strength or volume shall occur from an existing connection, until the City has approved such discharge and applicable sewer connection fee has been paid. Fees shall be paid in accordance with the following:

Residential Users: One standard residential connection fee shall be assessed for each new single family, duplex, triplex or fourplex, townhouse, and each planned development living unit. One multi-family residential sewer connection fee shall be assessed for each unit in a multiple-family building (that is, a building with five or more dwelling units, excluding townhouses) and each mobile home living unit.

Commercial, Industrial, Institutional and Other Users: The sewer connection fee will be calculated in accordance with the number of gallons of daily capacity required to serve the customer and the pounds per year of carbonaceous biochemical oxygen demand (CBOD) and suspended solids (SS) in the proposed discharge.

Sewer Connection Fees shall be adopted by resolution of the Hayward City Council.

- (b) **Minimum Connection Fee.** The minimum sewer connection fee for commercial, industrial, institutional properties will be no less than that of a single family dwelling unit.
- (c) **Sewer Connection Fee Credits.** In determining sewer connection fees for a facility, the City shall credit applicants with the capacity previously paid for and purchased for the property. If documentation is not available regarding purchased capacity, the City shall determine the likely purchased capacity. No other credit shall be granted.
- (d) **Additional Connection Fees for Existing Customers.** In the event that average discharge volume or waste strength from a non-residential customer is higher than the estimated volume or strength on which the original sewer capacity fee was based, or there is an increase in discharge, the City of Hayward may, at its sole discretion: 1) assess additional sewer connection fees if sufficient sewer system capacity is available; or 2) require the user to reduce its discharge to volume and strength within its authorized discharge. Additional connection fees will be calculated at the rates in effect at the time that additional capacity is purchased.
- (e) **Existing Uses Not Subject to Payment of Sewer Connection Fees.** Existing sewer uses, or so-called “grandfathered” uses, which initiated operations prior to 1996, shall not be subject to payment of sewer connection fees as long as the following conditions are met: volume and waste strength of discharge from the property does not increase.
- ~~1. The property boundaries are not expanded; and~~
 - ~~2. The use of the property does not change; and~~
 - ~~3. 50% or more of the ownership remains the same; and~~
 - ~~4. The volume and waste strength of discharge from the property does not increase.~~
- (f) **Connection Fee Nonrefundable.** All sewer connection fees as herein provided are non-refundable. Exceptions may be made if, within one year of payment of sewer connection fees, the average discharge volume or waste strength from a non-residential user is significantly lower than the estimated volume or strength on which a sewer connection fee was based. Wastewater discharge from properties for which refunds have been granted will be limited to the volume and/or waste strength as adjusted after the refund has been made. Such refunds must be requested by the payer of the sewer connection fee, and are subject to approval by the City. In the event that a refund is granted, any subsequent increase in discharge from the facility will be subject to the City’s review and approval in accordance with d. above.

- (g) **Payment Schedule.** Sewer connection fees in excess of Twenty Five Thousand Dollars (\$25,000) may be made in monthly payments, over a term not to exceed one hundred twenty (120) months with interest, with the term to be approved by the City Manager.

Interest rates for various terms shall be approved annually by the City Council and incorporated into the City’s Master Fee Schedule. In developing fair and reasonable interest rates, the City shall consider the percentage change in the “Consumer Price Index for all Urban Consumers (CPI-U): San Francisco-Oakland-San Jose, All Items,” during the most recent twelve-month period for which data is available, other applicable and appropriate municipal cost escalation indices, and the City’s rate of return on its overall investment portfolio in the previous twelve months. The rates shall be set at no more than the then current United States Prime Rate for agreements up to three years; the United States Prime Rate plus 1 percent for agreements of four to five years; and the United States Prime Rate plus 2 percent for agreements of six to ten years.

In the event that a payer fails to satisfy the terms of the payment agreement, the permitted discharge from the facility shall be limited to the amount of sewer capacity for which the City has received payment. In the event that discharge from the facility exceeds the paid capacity, the City may, upon notice, restrict or terminate water service.

The City Council shall be provided with an annual report summarizing payment agreement activity during the previous twelve months, including the number of payment defaults, if any.

- (h) **Sewer Capital Improvement Fund.** All revenues derived from Sewer System connection fees shall be deposited in a special fund titled “Sewer Capital Improvement Fund” and used only for sewer system purposes authorized in that Fund.

Capacity Rights and Transferability. Sewer system capacity rights and the right to connect to the public sewer shall run with the property and shall not be transferred to, or used for any property other than the property for which sewer connection fees were paid, unless the City Manager specifically authorizes such a transfer.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2015, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2015, by the following votes of the said City Council.

AYES:

NOES:

ATTEST:

ABSENT: