

ORDINANCE NO. 101

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NAPA SANITATION DISTRICT,
AMENDING DISTRICT CODE, TITLE 5, SECTION 5.02 RELATING TO CAPACITY CHARGES**

WHEREAS, the Napa Sanitation District charges capacity charges in accordance with the California Mitigation Fee Act (Government Code Section 66000, et. al); and

WHEREAS, the District has conducted an analysis of its capacity charge methodologies and has found that changes could be made that would improve the relationship between the fee calculation methodology and the actual capacity used; and

WHEREAS, the District engaged Carollo Engineering to conduct an independent analysis of District capacity charges, including a survey of similar local agencies in California, and discussions with District customers and stakeholders; and

WHEREAS, Carollo Engineering has prepared a report titled "Capacity Charge Methodology and Development Fee Review," dated January 2015 ("the Fee Study"), in which it recommends restructuring the capacity charge methodology; and

WHEREAS, the proposed restructuring of capacity charge methodologies is based on a clear relationship between the proposed fees and the services associated with the fees, and are easier to administer and understand by customers than the existing capacity charge methodologies;

WHEREAS, in considering this Ordinance, the Board of Directors carefully considered the Fee Study, which is incorporated herein by reference; and

WHEREAS, as required by Government Code section 66016, at least 10 days prior to adoption of this Ordinance, the District made available to the public the Fee Study and other data indicating the amount of cost, or estimated cost, required to provide the service for which the fee is levied and the revenue sources anticipated to provide the service; and

WHEREAS, the proposed restructuring of capacity charges and the manner in which this ordinance was adopted are consistent with the District's Master Plans and the applicable provisions of the Mitigation Fee Act.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE NAPA
SANITATION DISTRICT:**

SECTION 1. Subsection 5.02.030 – Capacity Charge Calculation, of District Code is hereby amended as follows:

5.02.030 Capacity Charge Calculation

The following fees shall be paid to the District prior to the issuance of a permit to connect with the District's sewerage works. ~~If refunded, 10% of the capacity charges paid shall be deducted from the refund.~~

A. Residential/~~Commercial~~

<u>Category</u>	<u>Fees prior to Jan. 1, 2012</u>	<u>Fees as of Jan. 1, 2012</u>	<u>Fees as of July 1, 2012</u>	<u>Fees as of July 1, 2013</u>
Single Family Dwellings	\$5,660	\$6,000	\$7,000	\$8,300
Senior Dwelling/single room occupancy—per unit	\$3,396	\$3,600	\$4,200	\$4,980
Multiple Family Dwellings— Per Unit	\$5,660	\$6,000	\$7,000	\$8,300
Commercial per Unit— Minimum or Fixture Unit Basis, whichever is greater	\$5,660	\$6,000	\$7,000	\$8,300
Industrial units— Minimum or Fixture Unit Basis, whichever is greater	\$5,660	\$6,000	\$7,000	\$8,300
Shell Structures— Minimum or per Square Foot, whichever is greater	\$5,660 \$2.19 ft²	\$6,000 \$2.32 ft²	\$7,000 \$2.71 ft²	\$8,300 \$3.21 ft²
School— Per Building— Minimum	\$5,660	\$6,000	\$7,000	\$8,300
Hotels, Motels and other like uses	\$5,660	\$6,000	\$7,000	\$8,300
With kitchen facilities— Per Unit	\$5,660	\$6,000	\$7,000	\$8,300
— Without kitchen facilities — Per Unit	\$4,192	\$4,444	\$5,184	\$6,147
Bed and Breakfast Facilities— Per Guest	\$2,830	\$3,000	\$3,500	\$4,150
Rental Unit	\$5,660	\$6,000	\$7,000	\$8,300
Bed and Breakfast Facilities — Manager's Unit	\$5,660	\$6,000	\$7,000	\$8,300
Churches— Minimum or Fixture Unit Basis,	\$5,660	\$6,000	\$7,000	\$8,300

whichever is greater Government Buildings— Minimum or Fixture Unit Basis, whichever is greater	\$5,660	\$6,000	\$7,000	\$8,300
Residential Care Facility— Minimum or Fixture Unit Basis, whichever is greater	\$5,660	\$6,000	\$7,000	\$8,300
Auxiliary Buildings— Minimum or Fixture Unit Basis, whichever is greater	\$5,660	\$6,000	\$7,000	\$8,300
Structures without Plumbing	\$5,660	\$6,000	\$7,000	\$8,300

<u>Fee Schedule for Fixture Units</u>	<u>Fees prior to Jan. 1, 2012</u>	<u>Fees as of Jan. 1, 2012</u>	<u>Fees as of July 1, 2012</u>	<u>Fees as of July 1, 2013</u>
Per automatic clothes washer	\$612	\$650	\$760	\$900
Per automatic dishwasher	\$653	\$690	\$810	\$960
Per bath tub	\$348	\$370	\$430	\$510
Per dental chair (equipped with plumbing)	\$197	\$210	\$240	\$290
Per drain-floor	\$295	\$310	\$370	\$430
Per drinking fountain or electric cooler	\$149	\$160	\$190	\$220
Per laundry tray	\$348	\$370	\$430	\$510
Per lavatory-regular	\$215	\$230	\$270	\$320
Per sink-kitchen, laboratory, slop, surgeon	\$410	\$440	\$510	\$600
Per shower-stall	\$348	\$370	\$430	\$510
Per toilet	\$674	\$720	\$830	\$990
Per urinal	\$330	\$350	\$410	\$480

<u>Capacity Charge Fee</u>	<u>Single Family Dwellings</u>	<u>Senior Dwellings / Residential Care Facilities single room occupancy – per unit</u>	<u>Multiple Family Dwellings – Per Unit</u>
	<u>Prior to Jan. 1, 2012</u>	<u>\$5,660</u>	<u>\$3,396</u>
<u>As of Jan. 1, 2012</u>	<u>\$6,000</u>	<u>\$3,600</u>	<u>\$6,000</u>
<u>As of July 1, 2012</u>	<u>\$7,000</u>	<u>\$4,200</u>	<u>\$7,000</u>

<u>As of July 1, 2013</u>	<u>\$8,300</u>	<u>\$4,980</u>	<u>\$8,300</u>
<u>As of July 1, 2014</u>	<u>\$8,723</u>	<u>\$5,234</u>	<u>\$8,723</u>
<u>As of July 1, 2015</u>	<u>\$8,950</u>	<u>\$5,370</u>	<u>\$8,950</u>

~~B. **Commercial Options.** Applicants for shell structures have the option of paying capacity charges by either of the methods listed below. The applicant is required to notify the District in writing of which method they choose prior to obtaining a connection permit from the District and may not change the method once the connection permit is issued.~~

~~1) **Method 1 – Per Commercial Unit**~~

~~Each commercial unit or tenant space that develops within the building shall pay either the minimum "per unit" fee, or the fixture unit fee (whichever is greater) based on the rates in effect at the time. If additional plumbing fixtures are installed within an existing commercial unit, additional capacity charges would be required based on fixture units.~~

~~2) **Method 2 – Per Square Foot**~~

~~The capacity charge is paid based on the square footage of the building. If the capacity charge is paid using this option, there is no limit on the number of commercial units or plumbing fixtures that may be installed within the building. Additional capacity charge would only be required if a restaurant or laundromat is created within the building, or if an industrial user locates within the building. The capacity charges would then be calculated per Section 5.02.030(B)(1) with a square foot cost credit applied for the area utilized.~~

~~1) **General.** This section sets out the methodology for establishing capacity charges for commercial uses, other than industrial uses. The amount of the capacity charge is determined first by determining the Equivalent Dwelling Units (EDUs) as specified in this section (by reference to the square footage of the use, number of units, or both) and second by multiplying the number EDUs by the then-current rate for single family dwellings established in 5.02.030.A.~~

~~2) **Food Service Establishments.**~~

~~a) **Charge Methodology.** Food service establishments shall be assessed capacity charges based square footage of the entire unit, including any exterior space that will be used for sit down dining. The charge shall be based on 3.25 EDU for the first 2,000 square feet, and 3.25 EDU for each 1,000 square feet thereafter, prorated.~~

~~b) **Payment Over Time.** Food service establishments requiring 3.0 EDU or greater may elect to pay capacity charges over time in accordance with this Section. In such event, the General Manager shall require the applicant to~~

pay a capacity charge equal to at least one EDU shall be due prior to the issuance of a building permit by the City of Napa or the County of Napa, pursuant to 5.02.020 and in conjunction therewith to enter into an agreement with the District that obligates it to pay the additional capacity charges. The agreement shall require the applicant to pay the additional capacity charges within three years, with a minimum annual payment equal to one (1) EDU, plus interest at a rate not to exceed five percent (5%). The General Manager may include other provisions to ensure payment and protect the interests of the District.

- 3) Car Washes.** Car washes shall pay capacity charges based on actual water usage the prior year. The car wash may estimate water usage for the first year of operation, with a “true up” of capacity charges at the end of the first year based on actual water usage. The fee shall be calculated using the formula in Code Section 5.02.030.C with zero values used for BOD and TSS. The District may require the installation of a secondary water meter to measure car wash flow. Annually, the car wash facility is subject to paying additional capacity charges at the then current rate if the amount of capacity used exceeds the capacity previously purchased.
- 4) Transient Lodging Facilities.** Bed and breakfast facilities, hotels, motels, recreational vehicle parks, and campgrounds shall be assessed a capacity charge at the rate of 0.75 Equivalent Dwelling Unit (EDU) for each unit, unless any of the units include kitchens, in which case the units with kitchens shall instead be charged at the rate of 1.0 EDU for each unit. In addition, common areas in such facilities, such as meeting rooms and restaurants, shall be subject to the per-square-foot capacity set forth in this Section.
- 5) Structures Without Plumbing.** Structures without plumbing pay capacity charges based upon building use, as provided in this Section.
- 6) Other Commercial Units.** Applicants for commercial units, other than Food Service Establishments, shall be assessed capacity charges based square footage of the entire unit, or as otherwise noted in the table below. The charge shall be based on the current capacity charge (Single Family Dwelling) rate per Equivalent Dwelling Unit (EDU), multiplied by the EDU factor per 1,000 square feet table below, times the number of square feet:

EDU for Commercial Users

<u>Type of User</u>	<u>EDU Factor/ 1,000 SF</u>
<u>Bakery</u>	<u>1.90</u>
<u>Bar, Tavern, Cocktail Lounge</u>	<u>1.00</u>
<u>Barber</u>	<u>0.20</u>

Beauty Salon	0.28
Bowling Alley	0.70
Church	0.31
Convenience Store	0.75
Day Care Facility	0.80
Drug Store	0.26
Dry Cleaners (no laundry)	0.25
Funeral Home/Mortuary	2.00
Garage (vehicle repair)	0.60
Grocery w/ disposal	0.76
Grocery w/o disposal	0.49
Gym, Health Club	1.00
Hall, Lodge, Meeting Rooms	0.47
Hospital	7.00
Laundromat	3.00
Laundry, Commercial	4.00
Medical/Dental Office	0.80
Nightclub w/ Dance Floor	0.70
Office (e.g., Bank, legal, accounting, government building, etc.)	0.22
Pet Grooming Shop	0.30
Pool Hall	0.60
Prison, Jail	1.60
Restroom building (rest stops, etc)	5.00
Retail stores (w/o dining)	0.22
Schools (public and private)	0.50
Service Station w/o Food Sales	0.90
Service Station w/ Food Sales	1.00
Theater	0.52
Veterinarian Hospital/Clinic	0.50
Warehouse/Storage Facilities	0.05

Capacity Charge = Rate for Single Family Dwelling x square feet ÷ 1,000 x EDU Factor

There is a minimum capacity charge of 1.0 EDU.

Mixed use facilities are charged as a composite of the charge for the square footage of each use. For example, Warehouse/storage facility fees are charges as a composite of the charge for the square footage of office space (0.22 EDU/1,000 SF) and the charge of the square footage of warehouse/storage space (0.05 EDU/1,000 SF).

- C. **Industrial.** Industrial capacity charges for wastewater strength and flow that exceeds domestic wastewater characteristics shall be calculated using the average daily flow,

BOD, and TSS data for the anticipated peak 30-day period, with a minimum of 1.0 EDU for an industrial facility. The data shall be provided to the District. These three parameters will be applied to the following formula in the following table to determine the number of Sewer Service Units (Equivalent Dwelling Units - EDU)

Industrial User Capacity Charges Assignment Formula		
Parameter	Cost Allocation	Assumed Loading (1.0 Unit)
Flow	50%	210 gal/day
BOD	25%	175 mg/L
TSS	25%	200 mg/L
Step 1		
Flow Factor		= $\frac{\text{Average Daily Flow}}{210 \text{ gals/day}}$
Step 2		
Strength Factor		= $0.50 + (\text{BOD} \div 175 \times 0.25) + (\text{TSS} \div 200 \times 0.25)$
Step 3		
Equivalent Dwelling Units (EDUs)		= (Flow Factor) x (Strength Factor)
Step 4		
Capacity Charge		= (Equivalent Dwelling Units) x (Current Single Family Dwelling Rate)

The EDU value calculated above will then be multiplied by 1.5 to determine the maximum allowable peak day EDU. If the actual peak day EDU exceeds the maximum allowable peak day EDU, then additional capacity charges shall be due in accordance with the following formula:

Additional Capacity Charge =
 $((\text{Actual Peak Day EDU} \div 1.5) - \text{Permitted EDU}) \times \text{Current Single Family Dwelling Rate}$

After the industry is connected to the sewer and its discharge has been monitored for a reasonable length of time as determined by the General Manager, then actual loading shall be calculated using the formulas listed above. Any additional capacity charges shall be due within 30 days of invoice date. Industries shall be limited to the capacity purchased. If an industry exceeds its allowable capacity the District will, if capacity is available, calculate and charge the industry for the additional capacity used. These fees will always be based on the single family dwelling unit capacity charge rate in effect at the time. If additional capacity is not available then the District will assess a fine equal to twice the calculated capacity charge for each day the violation(s) occur.

Industries that utilize the above formula will be required to stay within the allowed capacity limits. The District may require continuous or intermittent sampling by the industry to ascertain the type and quantity of the industrial discharge. If the industry does not stay within the allowable peak daily flow, BOD and TSS capacity limits as defined above, then the industry will have to purchase additional capacity at the rates in effect at that time, unless the industry is eligible for and elects to lease capacity as described under District Code Section 5.02.070.

If the industry's pollutants are incompatible with the District's treatment system but will not cause a discharge or sludge disposal violation for the District, then the District may allow the connection with a special fee calculation. If the industry's pollutants will cause a discharge or sludge disposal violation, then the District will not allow the connection.

SECTION 2. Subsection 5.02.040 – Change of Use, of District Code is hereby amended as follows:

5.02.040 Change of Use

- A. **Residential.** If a residential building is modified, which results in additional living units, capacity charges are due as listed above for residential units in Code Section 5.02.030(A).
- B. ~~**Nonresidential**—If additional commercial units and/or tenant spaces are created within a building, and/or if additional plumbing fixtures are installed within an existing commercial unit and/or tenant space, capacity charges are due as listed above.~~ **Commercial Expansion.** If additional commercial units and/or commercial space is created by increasing the square footage, capacity charges are due with respect to the additional square footage at the rate listed in Section 5.02.030.B.

C. Change in Commercial Categories. If a commercial use changes to another commercial category with a higher EDU factor, then capacity charges are due at the increased rate specified in Section 5.02.030.B, less the credit specified in Subdivision E of this Section.

D. Commercial to Industrial. If the use of a building changes from commercial to industrial, then capacity charges are due as listed in Code Section 5.02.030.C.

E. Credit for Prior Use. Notwithstanding anything to the contrary in Section 5.02, when a building changes from one use to another use and additional capacity charges are due, the building will receive credit for the capacity, as measured by Equivalent Dwelling Unit, that have been previously purchased for or allocated to that building.

SECTION 3. Subsection 5.02.050 – Change of Use, of District Code is hereby amended as follows:

5.02.050 Demolition Credits

Upon request for demolition permit, applicant must make an election regarding the treatment of the credit for the capacity from the to-be-demolished structure or structures. Once the permit is issued, the election is irrevocable. The applicant shall elect one of the following methods of treatment:

Method 1 - Capacity charge credits ~~shall~~ would be valid for a period of two years from the date the demolition permit is issued by the District, and ~~shall~~ would remain with the parcel from which they were established. The property owner must obtain a City or County building permit within the two-year time frame in order to utilize the capacity charge credits If a building permit is not obtained within two years, the capacity charge credit will expire. During the period between issuance of the demolition permit and issuance of a building permit, no sewer service charges would be assessed.

Method 2 – Capacity charge credits would not expire provided the applicant agrees to remain subject to sewer service charges after issuance of the demolition permit, acknowledging that the District would be assessing sewer service charges to the parcel during periods of no sewer flow from the parcel.

The value of the capacity allocation credits shall be based on the ~~type of unit and/or fixtures that have been removed from the parcel~~ capacity, as measured by Equivalent Dwelling Unit, that have been previously purchased for or allocated to that building.

SECTION 4. Subsection 5.02.070 – Exceedance Fee Option, of District Code is hereby replaced in its entirety as follows:

5.02.070 Leased Capacity in Lieu of Purchased Capacity

- A. Eligibility.** Winery-Related Operations may, at the request of the industrial user, may choose to lease capacity rather than pay for additional capacity when the facility does not stay within the capacity limits defined in Code Section 5.02.030(C). Winery-related Operations that have purchased at least 5 EDU of capacity are eligible for the Lease Program.
- B. Lease Program – Defined.** At the request of the Winery-Related Operation, the District will not require the user to purchase additional capacity when their capacity limits are exceeded. Instead, the user will be charged a surcharge on their monthly sewer service charge invoices. Payment of the leased capacity charge would supersede the requirements to pay full capacity charges for exceeding capacity.
- C. Calculation of Charge for Leased Capacity.** The amount of the monthly capacity charge lease shall equal the greatest exceedance by the user of its purchased capacity during the prior 12 month period (as calculated in Code Section 5.02.030(C)), measured in Equivalent Dwelling Units, multiplied by the capacity charge for Single Family Dwellings in effect during the invoice period, divided by 240.
- D. Leased Capacity Does Not Accrue to Parcel.** Capacity charge lease payments do not increase the amount of capacity that is allocated to the parcel.
- E. Recorded as Capacity Charges.** All revenues collected under this Section shall accrue to the District’s Expansion Fund and be recognized as capacity charge revenue.

5.02.070—Exceedance Fee Option

- ~~A. In the event that an Industrial User permitted under this Code exceeds the capacity limits under said permit, the permitted user may voluntarily choose the Exceedance Fee Option in lieu of paying additional capacity charges per Section 5.02.030, only under the following conditions:~~
- ~~1. The District shall provide a Notice of Exceedance to the permitted user that a discharge exceeded permitted levels;~~
 - ~~2. Within 14 calendar days of issuance of the Notice of Exceedance, the permitted user shall notify the District in writing of its preliminary intent to exercise the Exceedance Fee Option;~~
 - ~~3. Within 45 calendar days of issuance of the Notice of Exceedance, with the option to extend this time upon mutual agreement of the permitted user and the District, the permitted user shall attest in writing to the specific cause of the discharge exceedance, and that the permitted user has or will take immediate~~

~~action, either through changes in pre-treatment or management practices, or both, to ensure that a similar discharge exceedance does not recur. Said changes or actions shall include a compliance schedule and shall be identified in the written notice to exercise the Exceedance Fee Option; and~~

- ~~4. The General Manager, or District Engineer on delegation by the General Manager, reviews the viability of the proposed changes in pre-treatment and/or management practices intended to result in non-recurrence of the discharge exceedance, and issues an "Acceptance of Participation in Exceedance Fee Option" to the permitted user. The implementation plan and compliance schedule shall include a temporary permitted capacity limit that may be higher than the previously permitted capacity limit. An exceedance of the temporary permitted capacity limit during the implementation period shall be treated as a new exceedance of the permitted capacity limit and be subject to Section 5.02.030.~~
- ~~B. The Exceedance Fee shall be as a percentage of the connection fee as calculated under Section 5.02.030, as follows:~~
- | | |
|---|------------------|
| Between 1.01 and 5.00 times the EDU discharge allowance: | 10.0% |
| Between 5.01 and 10.00 times the EDU discharge allowance: | 12.5% |
| Between 10.01 and 15.00 times the EDU discharge allowance: | 15.0% |
| Between 15.01 and 20.00 times the EDU discharge allowance: | 17.5% |
| Over 20.00 times the EDU discharge allowance: | 20.0% |
- ~~After receiving notice from the permitted user of its preliminary intent to exercise the Exceedance Fee Option, as per Section 5.02.070 (A) (2), the fee shall be invoiced by the District and be due and payable within 30 days. The nonpayment of Exceedance Fees within 30 days of the date of invoice shall render the permitted user ineligible for the Exceedance Fee Option, and Section 906 of this Ordinance shall apply.~~
- ~~C. A permitted user shall not be allowed to pay the Exceedance Fee in lieu of paying additional connection fees if the permitted user has paid the Exceedance Fee for three (3) previous discharge exceedances in the past 60 months. In this circumstance, the Exceedance Fee Option will not be available to the permitted user.~~
 - ~~D. Payment of the Exceedance Fee under this section does not in any way change the discharge allowances in a discharge permit issued under Article IX of this Ordinance, except for any temporary increase that may be granted as part of the implementation of new pre-treatment systems and/or management practices. Fees paid under this section shall not be credited toward any other fees that may be charged to the permitted user, including any future connection fees paid under Section 5.02.030.~~

- ~~E. The permitted user shall be ineligible to exercise the Exceedance Fee Option for any subsequent discharge exceedances until the user has implemented the pretreatment and/or management practices attested in accordance with the approved compliance schedule described in Section 5.02.070(A)(3) above. The General Manager, or District Engineer on delegation by the General Manager, shall have sole discretion to determine whether the permitted user has proceeded in accordance with the approved plan and compliance schedule.~~
- ~~F. In the event that the changes in pre-treatment and/or management practices, as referenced in (A) above, are insufficient to correct the discharge exceedance, a permitted user's participation in this Exceedance Fee Option does not limit or remove the permitted user's liabilities and responsibilities as identified in this Code.~~
- ~~G. If the permitted user implements pre-treatment and/or management practice changes in accordance with the approved plan and within the compliance schedule, exceedance of the permitted capacity limits during the implementation shall not be subject to additional connection fees so long as the exceedance does not exceed the temporary permitted capacity limit. Failure to implement the approved plan and/or within the compliance schedule shall subject permitted user to additional connection fees accumulated during the implementation schedule.~~
- ~~H. If, during the period when the permitted user is implementing its approved plan and compliance schedule, the permitted user makes unapproved changes to its operational practices resulting in increased EDU discharge, the District retains the right to discontinue permitted user's participation in the Exceedance Fee Option and Section 5.02.030 shall apply. Any fees paid under this Exceedance Fee Option shall not be applied toward capacity charges.~~
- ~~I. The District retains the right to withdraw its "Acceptance of Participation in Exceedance Fee Option" if it determines, after sufficient notice and opportunity to remedy, that permitted user is not participating in good faith to implement pre-treatment and/or change management practices.~~
- ~~J. Participants in the Exceedance Fee Option shall continue to be assessed sewer service charges based on actual discharge to the sewer system while participating in this program.~~

SECTION 5.

- Effective Date.** This Ordinance shall take effect and be enforced sixty (60) days following final action.
- Severability.** If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable.

3. Within 15 days of adoption, this Ordinance shall be published in the Napa Valley Register, pursuant to California Health and Safety Code Sec. 4766 and California Government Code Section 25124.

4. Following a first reading of the title of this ordinance, which occurred at the regular meeting of the District Board, held on _____, 20____, the foregoing ordinance was duly:

* * * * *

PASSED AND ENACTED at a regular meeting of the Board of Directors of Napa Sanitation District duly held on the _____ day of _____, 20____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jill Techel, Chair
Napa Sanitation District

ATTEST:

Cheryl Schuh, Secretary
Napa Sanitation District
2443805.1