

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, CALIFORNIA, AMENDING CALISTOGA MUNICIPAL CODE CHAPTER 13.18 PERTAINING TO WASTEWATER (SEWER) SERVICE CHARGES, FEES, AND RATES

THE CITY COUNCIL OF THE CITY OF CALISTOGA ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council of the City of Calistoga finds as follows:

- A. California Health and Safety Code section 5471 and Calistoga Municipal Code Chapters 13.08 (Sewer Services) and 13.18 (Rates, Billing, Payment and Charges) empower the City of Calistoga, by and through its City Council, to prescribe, revise and collect fees, rates, and other charges for the connection to and availability and provision of wastewater service.
- B. Chapters 13.08 (Sewer Services) and 13.18 (Rates, Billing, Payment and Charges) of the Calistoga Municipal Code provide for the amendment of fees, rates, and charges by the City Council from time to time.
- C. The City has caused to be prepared a detailed analysis and projections regarding the City's wastewater system cost, improvement and revenue needs for fiscal years 2010 through 2015 in a document entitled the "2010 Wastewater Rate Study" ("Study").
- D. The information and analysis in the Study was the subject and result of over 21 public meetings overseen by the City's Water & Wastewater Revenue Committee.
- E. In May 2010, the City Council received a presentation highlighting the draft results of the Committee's work.
- F. On August 3, 2010, a draft of the Study was presented to the City Council.
- G. The findings and analysis in the Study regarding the recommended adjustments to the City's wastewater service charges, fees, and rates are incorporated by this reference.
- H. On September 21, 2010, at a duly noticed public hearing and in accordance with Article XIID, Section 6(a) of the California Constitution and Government Code sections 53750, 53755, and 53756 the City Council gave every interested person an opportunity to object to the proposed adjustments to the charges, fees, and rates as set forth in the Study.
- I. The City Council considered and overruled all written protests against the proposed charges, fees, and rates, which protests did not constitute a majority of the affected property owners, and adopted Resolution 2010-094 approving the Study, including the proposed adjustments to the wastewater charges, fees, and rates as set forth in the Study.

- J. The City Council, having duly received and considered oral and documentary evidence concerning the necessity for the proposed changes to the wastewater service charges, fees, and rates, desires to amend Calistoga Municipal Code Chapter 13.18 to establish revised wastewater service charges, fees, and rates.
- K. The revised water service charges, fees, and rates established by this ordinance do not exceed the estimated reasonable costs of providing the service or the construction, reconstruction, or maintenance of the related facilities.
- L. Pursuant to Title 14 of the California Code of Regulations, Section 15273, this ordinance is statutorily exempt from the requirements of the California Environment Quality Act (CEQA) in that it deals with the establishment of rates, fees, and other charges

Section 2. Amendment to CMC Section 13.18.030. Section 13.18.030 of Chapter 13 of the Calistoga Municipal Code is amended and restated to read as follows:

“13.18.030 Wastewater rates and charges.

The rates and charges for wastewater services provided by the City are as established in this section.

- A. **Definitions.** For the purposes of this section, the following words and phrases have the following definitions:
 1. "Wastewater" means water carried wastes from all discharge user categories discharged into the City wastewater collection system and treated at the wastewater treatment plant, whether the source of the discharge was from groundwater, City water or other sources.
 2. "Groundwater" means water discharged into the wastewater system from a coldwater well, geothermal well, geyser, spring or other similar source, and not from City water or storm water.
 3. "Wastewater discharger" means any person, business or entity that directly or indirectly causes wastewater to be discharged into the City's wastewater system.
 4. "Wastewater system" means facilities through which the City collects, treats and disposes of wastewater.
 5. Categories of wastewater dischargers:
 - a. "Single family residential dischargers" means those discharging wastewater in connection with the use of real property improvements of attached or detached residential dwelling units serviced by an individual water meter for each dwelling unit. A fixed single family residential rate is applied to each dwelling unit.
 - b. "Multifamily residential dischargers" means those discharging wastewater in connection with the use of real property

improvements of multiple attached or detached residential dwelling structures, and which are served by separate water meters for more than one dwelling unit. A fixed multifamily rate is applied to each dwelling unit.

- c. "Mobile home park dischargers" means those discharging wastewater from individual "mobile home dwelling units" within "mobile home parks," as such terms are defined in Chapter 17.04 of this code. A fixed mobile home rate is applied to each such dwelling unit.
- d. "Residential dischargers" means single family residential dischargers, multifamily residential dischargers and mobile home park dischargers.
- e. "Restaurant/bakery dischargers" means those discharging wastewater from businesses that are engaged in food preparation for commercial purposes, sells or serves food products and beverages for consumption on or offsite and with or without on site seating.
- f. "Bed and breakfast dischargers" means those discharging wastewater from businesses defined as "bed and breakfast" inns and facilities under Chapter 17.04 of this code.
- g. "Transient general dischargers" means those discharging wastewater from businesses defined as "hotel", "motel", "inn" and "resort" under Chapter 17.04 of this code, but who are not spa dischargers as defined in this subsection.
- h. "Commercial general dischargers" means all non-residential wastewater dischargers not otherwise defined in this subsection.
- i. "Industrial and bottling works dischargers" means those discharging wastewater from businesses that are subject to the provisions of Section 5.04.260 of this code.
- j. "Spa dischargers" means those discharging wastewater from businesses who use geothermal or other groundwater resources in connection with the provision of facials, body wraps, pools, bath houses, steam baths, mud baths, mineral baths or the like, and who are defined as a "bed and breakfast," "hotel," "motel," "inn," or "resort" under Chapter 17.04 of this code.
- k. "Brewery/winery dischargers" means those discharging wastewater from businesses that are engaged in the brewing of beer, ale, malt liquors and nonalcoholic beer; or the manufacturing or blending of wine or brandies from grapes or other fruits, grains or other produce whether grown on the property or elsewhere.

- I. "Campground dischargers" means those discharging wastewater from businesses that provide public or private campground or recreational vehicle spaces for transient occupancy and subject to the provisions of Chapter 3.16 (Transient Occupancy Tax) of this code.
6. "Mixed use dischargers" means those users who have multiple types of discharge user categories served by the same water meter, wastewater lateral or billing account. Such accounts will be billed at the highest rate of discharge user category type unless a determination on the predominant type of wastewater discharge is made by the Public Works Director as set forth in subsection F of this section.
7. "Mixed use discharge allocation" means a determination of the volume of wastewater discharge attributable to each category of wastewater discharger, which comprises the mixed use discharger to determine the predominant type of wastewater discharge to the wastewater system.
8. "Billing cycles" means either monthly, approximately every 30 days, or bi-monthly, approximately every 60 days, reading of meters for water consumption and billing of accounts as set by City Council resolution for each type of water account.
9. "Service unit" means 100 cubic feet (hcf), or approximately 748 gallons, of water, and is also referenced as "unit", "hcf" or "ccf".
10. "Per hcf of water use" means the measured City water use from City water meters in 100 cubic feet (hcf).
11. "Measured flow" means wastewater discharge flows measured by a meter, sampling or other methods in gallons, 100 cubic feet (hcf) or any other appropriate measurement unit.
12. "Wastewater capacity allocation charge" means the rate applied to those who have been allocated a wastewater allocation under Chapter 13.16 of this code. At the time of the imposition of the wastewater connection fee, the appropriate wastewater discharger category will be established for discharge of wastewater to the wastewater system.
13. "Groundwater discharge rate - spa" means that rate applied to City metered water use from spa dischargers for the estimated groundwater discharge into the wastewater system. This rate is in addition to the "transient rate – spa" that is also applied to City water use for City water discharge into the wastewater system in Section 13.18.030(B)(1).
14. "Groundwater discharge rate - residential/spa/ commercial" means that rate applied to measured flow from only groundwater discharge into the wastewater system. This rate is in addition to the wastewater rate applied to City metered water use for City water discharge into the wastewater system in Section 13.18.030(B)(1).

15. "Wastewater connection fee" means a fee that is required under Chapter 13.16 of this code for a person, business or entity to connect to or expand an existing connection to discharge wastewater to the wastewater system. This fee is also referred to as the "sewer development fee" or "resource management system fee" in other chapters of this code.

B. Wastewater Service Charges.

1. Service charges for all wastewater dischargers are established in the following amounts:

User Categories	Basis	2010-11	2011-12	2012-13	2013-14	2014-15
Residential Rates						
Single Family	Monthly Flat Rate	\$51.08	\$56.63	\$59.94	61.82	\$62.72
Multifamily	Monthly Flat Rate	\$50.56	\$52.94	\$51.94	\$52.52	\$52.77
Mobile Home	Monthly Flat Rate	\$32.65	\$34.18	\$33.54	\$33.91	\$34.08
Transient Rates						
Transient General	Monthly/Water hcf	\$9.41	\$10.70	\$11.68	\$12.18	\$12.83
Spa – Geo Water – No Mud	Monthly/Water hcf	\$9.41	\$10.70	\$11.68	\$12.18	\$12.83
Campground	Monthly/Water hcf	\$9.41	\$10.70	\$11.68	\$12.18	\$12.83
Bed and Breakfast	Monthly/Water hcf	\$9.41	\$10.70	\$11.68	\$12.18	\$12.83
Other Nonresidential Rates						
Comm. General & Others	Monthly/Water hcf	\$6.01	\$6.31	\$5.46	\$5.07	\$4.97
Restaurant/Bakery	Monthly/Water hcf	\$15.32	\$17.61	\$20.93	\$21.64	\$22.03
Laundry	Monthly/Water hcf	\$6.01	\$6.31	\$5.46	\$5.07	\$4.97
Public Buildings	Monthly/Water hcf	\$6.01	\$6.31	\$5.46	\$5.07	\$4.97
Medical Care	Monthly/Water hcf	\$6.01	\$6.31	\$5.46	\$5.07	\$4.97
Brewery/Winery	Monthly/Water hcf	\$1.61	\$1.47	\$1.40	\$1.40	\$1.42
Schools	Monthly/Water hcf	\$6.01	\$6.31	\$5.46	\$5.07	\$4.97
Service Stations	Monthly/Water hcf	\$6.01	\$6.31	\$5.46	\$5.07	\$4.97
Industrial and Bottling Works Rates						
Measure Flow	Monthly/Million Gallons	\$6,752.60	\$8,349.28	\$9,369.57	\$9,399.02	9,929.06
Calculated BOD	Monthly/Pound	\$1.59	\$1.60	\$1.60	\$1.60	\$1.62
Calculated SS	Monthly/Pound	\$1.22	\$1.24	\$1.25	\$1.24	\$1.26
Groundwater Discharge Rates						
Spa	Monthly/Water hcf	\$3.67	\$4.11	\$3.92	\$3.93	\$3.99

Residential/Spa/Commercial	Monthly/Flow hcf	\$6.30	\$7.45	\$7.90	\$8.15	\$8.28
Other Rates						
Wastewater Allocation	Capacity	Monthly Flat Rate	\$41.17	\$46.83	\$44.98	\$44.44
Minimum Rate for all Nonresidential Categories		Monthly/Water hcf	\$32.65	\$34.18	\$33.54	\$33.91
						\$34.08

2. Beginning on January 1, 2016, the monthly service charge in subsection (B)(1) may be adjusted to provide for the increase, if any, in the San Francisco-Oakland-San Jose Consumer Price Index from the effective date of the last adjustment to such charges following notice and a public hearing in accordance with applicable law.
3. The groundwater discharge rate - spa, as defined in subsection (A)(13) and established in subsection (B)(1), will be charged to spa dischargers, as defined in subsection (A)(5)(j). In addition to the foregoing groundwater discharge related rates, any discharger will be charged the appropriate rates established in subsection (B)(1), for costs associated with the discharge of City-supplied water.

C. Wastewater Connection Fee.

1. A wastewater connection fee for each new connection or expanded use of an existing connection to the wastewater system is established as follows and is subject to the provisions of Chapter 13.16 (Resource Management System) and any other applicable provisions of this code:

Wastewater connection fee per annual acre foot of wastewater allocation - \$92,384.

2. The Wastewater connection fee will be adjusted annually on January 1 of each year by the percent change over the latest available previous 12-month period in McGraw-Hill Engineering News Record 20-City annual construction cost index, or equivalent index as determined by City Council resolution.

D. Billing of Wastewater Rates. The billing for wastewater rates will be consolidated with the water billing system as provided for in this chapter.

E. Wastewater Discharges Outside City Limits. Wastewater service provided to wastewater dischargers discharging from uses outside of the City limits is subject to additional 15% charge to the wastewater service charges for such type of wastewater discharger unless subject to special outside agreements as provided in Section 13.08.495 of this code.

F. Mixed Use Dischargers.

1. Mixed use dischargers will be billed at the highest rate of wastewater discharger classification applicable to the subject wastewater discharger unless a mixed use discharge allocation determination is made by the Director of Public Works.
2. A mixed use discharger may request the Director of Public Works to make a determination of the predominant type of wastewater discharged by the wastewater discharger. If a mixed use discharger requests such a determination, the mixed use discharger must pay for and provide a wastewater study to the Director of Public Works.
3. In making a determination on the predominant type of wastewater discharge for billing purposes, the Public Works Director may take into consideration, but is not limited to, a wastewater study, a water use study, land use classification, or other information regarding the nature of the wastewater discharge. The Director of Public Works will notify the mixed use discharger in writing of his or her determination. The mixed use discharger may appeal the determination pursuant to Chapter 13.10 of this code.
4. Additional policies and regulations to implement the processing of an application for a mixed use volume discharge allocation may be established by City Council resolution.

G. Other Fees or Charges for Services. Other fees and charges for services, which are necessary for the operation of the wastewater system, will be set by City Council resolution.”

Section 3. Application of Rate and Fee Changes. The adjusted rates and connection fee imposed in amended Section 13.18.030(B) and (C) as provided in this ordinance will be implemented as follows:

- A.** The wastewater service rates in amended Section 13.18.030(B) for 2010-11 will be applicable to all accounts on or after the first billing after the effective date of this ordinance.
- B.** The wastewater service rates in amended Section 13.18.030(B) for 2012 through 2015 will apply to water service provided after January 1st of each applicable year.

- C. The wastewater connection fee established in amended Section 13.18.030(C) will be applied to new development or expanded use connections to the wastewater system when a building permit is issued, development agreement executed, or tentative map approved by the City after the effective date of this ordinance.

Section 4. Severability. If any of the provisions of this ordinance or the application thereof to any person or property is held invalid, such invalidity will not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 5. Judicial Review. Any judicial review of this ordinance must be by writ of mandate under Code of Civil Procedure 1085, and any such action or proceeding seeking to attack, review, set aside, void or annul this ordinance must be commenced within 90 days after the adoption of this ordinance.

Section 6. Publication. The City Clerk is directed to publish this ordinance in accordance with applicable law.

THIS ORDINANCE was introduced with first reading at the City of Calistoga City Council meeting on October ____, 2010 and was passed and adopted at a regular meeting of the Calistoga City Council on October ____, 2010, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Jack Gingles, Mayor

ATTEST:

Su Sneddon, City Clerk

CERTIFICATION BY CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF NAPA) ss.
CITY OF CALISTOGA)

I, Su Sneddon, City Clerk of the City of Calistoga, California do hereby certify that the foregoing is a true and correct copy of Ordinance No. ____, duly passed, approved, and adopted by the City Council of the City of Calistoga at their regular meeting of October __, 2010, and thereafter duly signed by the Mayor or Vice Mayor, as indicated; and that such ordinance has been published pursuant to law.

Su Sneddon, City Clerk, CITY OF CALISTOGA