

**ORDINANCE NO. 2017-20**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED  
CITY OF VISTA, CALIFORNIA, AMENDING CHAPTERS 14.01  
AND 14.06 OF THE VISTA MUNICIPAL CODE REGARDING  
SEWER REGULATIONS AND CHARGES**

The City Council of the City of Vista does ordain as follows:

1. **Findings.** The City Council hereby finds and declares the following:

A. Through this ordinance, the City Council intends to promote the effective operation of the District and to advance the public health, safety and welfare.

2. **Code Amendment.**

A. Section 14.01.050 of the Vista Municipal Code is amended to read as follows:

**Section 14.01.050 Sewer Revenue Fund and Reserve Accounts**

C. The Sewer Revenue Fund shall include a Treatment and Discharge Rate Stabilization Reserve. The purpose of the Treatment and Discharge Rate Stabilization Reserve is to provide for unexpected treatment and discharge costs imposed upon the sewer system by the Encina Wastewater Authority (EWA). The City is a member of EWA and all of the wastewater entering the sewer system is treated and discharged through the EWA treatment and discharge facilities under permit. The costs of such treatment and discharge are not known or fixed until after the City's budget is approved. Therefore, a reserve is needed to meet the unexpected costs. For this reason, the City Council intends that the Treatment and Discharge Rate Stabilization Reserve be maintained at a funding level equivalent to 15 percent of the running average annual cost to the sewer system for treatment and discharge services by EWA over the preceding five-year period.

B. Section 14.06.040 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.040 Capacity Rental Charge**

A. In addition to the sewer capacity charge and to the sewer service charge, a capacity rental charge may be charged to any user whose water use records show that the user is discharging in excess of purchased sewer capacity. A capacity rental charge will be based on the number of EDUs of capacity being used in excess of paid sewer capacity charge and are intended to cover the cost of capital facilities for excess usage.

B. Users with outdoor irrigation meters. For any user who has an outdoor irrigation meter, the highest bi-monthly water use period on the interior building meter will be converted to a daily water use and divided by 200 gallons per day. This number will serve as the number of EDUs used during the fiscal year and will be compared to the purchased sewer capacity in terms of EDUs to determine if the capacity rental charge will be applied.

C. Users without outdoor irrigation meter. For any user who does not have an outdoor irrigation water meters, the lowest bi-monthly water use period, excluding zeros, will be converted to a daily water use and be divided by 200 gallons per day. This number will serve as the number of EDUs used during the fiscal year and will be compared to the purchased sewer capacity in terms of EDUs to determine if the capacity rental charge will be applied.

C. Section 14.06.050 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.050 Adjustment of Capacity Rental Charge**

A. Any person who believes in good faith and on reasonable grounds based upon available facts and information that the capacity rental charge imposed upon his or her property is unfair, incorrect, or improperly charged may file a request for review and adjustment of the capacity rental charge. All requests for review and adjustment shall be filed in writing and presented to the City Engineer or designee within 35 days from the date of the initial sewer service charge notice. Alternatively, a request may be made within 35 days from the date of the mailing of the property tax bill due in December. The written request shall include all of the following information:

B. Within 30 days of receiving a complete written request for adjustment, the City Engineer or designee, after conducting such investigations and inquires as he or she deems necessary, shall make written findings and determine whether or not the capacity rental charge imposed results in an unfair or unreasonable charge.

D. Section 14.06.060 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.060 Amount of Capacity Rental Charge and Purchase of Additional Sewer Capacity**

A. The amount of the capacity rental charge shall be established by City Council with the Sewer Service Charges. This amount will be collected yearly along with the Sewer Service Charges. The capacity rental charge shall be based on the previous calendar year's water use as an estimate of sewage generation and shall be calculated each year. Payment of the capacity rental charge will not change the number of EDUs assigned to a parcel.

B. The property owner may elect to purchase additional sewage capacity to avoid all or part of the capacity rental charge. Purchase of additional capacity must be made no later than May 1<sup>st</sup> of the subsequent year, otherwise capacity rentals charges will be placed upon the property tax roll.

E. Section 14.06.070 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.070 Waiver of Capacity Rental Charge**

Upon application of a property owner, the City Engineer may waive all or part of a capacity rental charge if he finds that the excessive usage was the result of a temporary condition that has been eliminated or reduced. The property owner

must apply for a waiver no later than May 1 following the calendar year in which the excessive usage occurred. The application shall include pertinent information such as water bills, repair receipts and a description of the condition that caused the excessive sewer usage.

- F. Section 14.06.090 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.090 Election to Have Capacity Rental Charge Collected with Taxes**

The City Council, pursuant to Section 5473 of the California Health and Safety Code, hereby elects to have the capacity rental charges that are imposed by this chapter and become due on July 1 of each year, collected on the tax roll in the same manner, by the same persons, and at the same time as, and together with and not separately from the general taxes of the City. The City Engineer shall prepare the report required by California Health and Safety Code Section 5473, et seq

- G. Section 14.06.100 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.100 Collection of Capacity Rental Charges with Taxes**

Any sewer capacity rental charges assessed pursuant to this chapter and not paid as provided in this chapter shall be made a lien against the property, as provided in California Health and Safety Code Section 5470 et seq.

- H. Section 14.06.110 of the Vista Municipal Code is amended to read as follows:

**Section 14.06.110 Equivalent Dwelling Units (EDUs)**

Residential EDUs are assigned for the purpose of both sewer capacity charges and yearly sewer service charges. For all other classes of users, separate methods are described for determination of EDUs for the purpose of capacity fees and determination of EDUs for the purpose of sewer service and capacity rental charges.

- I. A new subparagraph 11 is paragraph A of Section 14.06.120 of the Vista Municipal Code to read as follows, and the old subparagraph 11 shall be renumbered as subparagraph 12:

**Section 14.06.120 Residential Equivalent Dwelling Units Sewer Capacity**

- A. Types of Sewer Users Minimum EDUs

11. Hotels and Motels

a. Each Unit 0.4

12. All other commercial and industrial businesses sewer capacity charge shall be established by City Council policy and as may be amended from time to time.

J. Section 14.06.130 of the Vista Municipal Code is amended to read as follows:

**Section 14.060.130 All Other User EDUs**

A. New users (parcels without existing Sewer Discharge Permits). For all new users, not listed in Section 14.06.140 sewer capacity charges will be assessed at the rate of four EDUs for each gross acre. The user may elect to purchase more EDUs in order to reduce capacity rental charges. The following exceptions to the four EDUs per gross acre rule apply and may be used to reduce the number of EDUs required for a parcel. All parcels must maintain a minimum capacity of one EDU.

**3. Effective Date.** This ordinance shall be in full force and effect on the 61<sup>st</sup> day following the date of adoption.

**4. Adoption.** INTRODUCED AND ADOPTED at a meeting of the City Council held November 14, 2017, by the following vote:

AYES: Mayor Ritter, Aguilera, Rigby, Franklin, Green

NOES: None

ABSTAIN: None

  
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JUDY RITTER, MAYOR

APPROVED AS TO FORM:  
DAROLD PIEPER, CITY ATTORNEY

ATTEST:  
KATHY VALDEZ, CITY CLERK

By: \_\_\_\_\_

By: \_\_\_\_\_

APPROVED  
Jonathan B. Stone  
1529 102417

**CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2017-20 to be posted on November 16, 2017, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria E. McClellan Senior Center, 1400 Vale Terrace Drive; and 3) the City Clerk's Office, 200 Civic Center Drive.

A handwritten signature in blue ink that reads "Kathy Valdez". The signature is written in a cursive style with a large, looping "y" at the end.

Kathy Valdez, City Clerk