

CITY OF YUBA CITY
STAFF REPORT

Date: March 19, 2019
To: Honorable Mayor & Members of the City Council
From: Public Works Department
Presentation by: Diana Langley, Interim City Manager

Summary

Subject: Requests for Water and/or Wastewater Connections Outside of the City Limits

Recommendation: Establish a policy for water and/or wastewater connections outside of the City limits and direct staff to prepare the necessary documents to formalize and execute the policy

Fiscal Impact: Minor costs associated with drafting the necessary documentation.

Purpose:

To provide water and wastewater services to residential and industrial customers outside of the City limits.

Background:

The City periodically receives requests from property owners located outside of the City limits to connect to City water and wastewater. The requests are initiated for different reasons, with the most common being:

1. A developer wants to build on a parcel in close proximity to City water and/or wastewater facilities and wants to connect to such facilities so that they can maximize the utilization of the parcel.
2. A resident has a failing on-site septage system and is required to connect to City wastewater facilities by Sutter County Environmental Health.
3. A resident voluntarily wants to connect to City water and/or wastewater.

In regard to Item 2 above, Section 700-040 of Sutter County's Code of Ordinances related to on-site sewage treatment and disposal requires that,

When public sewer services are available within two hundred (200') feet of the building or exterior drainage facility as measured along the usual or most feasible route of access, the owner of record must connect the residence or facility to the public sewer system if:

1. The residence or facility is served by an on-site sewage system which has failed; or
2. The residence or facility does not have an on-site sewage system.

The applicable portion of the ordinance, which provides additional information related to exceptions, is included as Attachment 1.

Historically, when property owners located outside of the City limits have requested to connect to City water and/or wastewater, the City required the property owners to execute utility service connection agreements, also known as tri-party agreements or extraterritorial service agreements. These agreements allow the property owner to connect to City services, and, in exchange, the property owners agree to waive their right to protest future annexations. Currently, there are approximately 60 agreements on record for the City with the earliest agreement dated 1980 and the latest dated 2004, although not all have been recorded.

Section 6-5.217 of the City's Municipal Code for outside sewers, Attachment 2, provides minimal direction related to outside sewers. Section 6-5.217(b), "Connection Agreements," states,

In no event shall such permission be granted unless the applicant shall first enter into a contract in writing whereby they shall bind themselves, and their heirs, successors, and assigns, to abide by all laws, rules, and regulations in regard to the manner in which such sewer shall be used and the manner of connecting therewith, and also shall agree to pay all fees required for securing the permit and a monthly fee in the amount set forth by the City for the privilege of using such sewer.

There is no similar Municipal Code section for outside water connections; however, there was a brief period in 2010 and 2011 where Council adopted ordinances allowing properties to connect to water without requiring extraterritorial service agreements. After 2011, the City had a large project to extend water to the west on Franklin Road to serve Franklin School, El Margarita Estates, and Wildewood West. The City required annexation of those subdivisions as a condition to receiving City water.

Analysis:

In an effort to formalize the process and policy for outside connections to City water and/or wastewater, staff has identified four primary options for Council consideration, although there are other options available.

1. Allow properties to connect with no requirements. This option is not recommended by staff or the City Attorney.
2. Allow properties to connect with the execution of an extraterritorial service agreement. Considerations for this option include:
 - Compliance with LAFCO requirements, including obtaining the appropriate approvals from both LAFCO and Sutter County to provide services outside of the City's jurisdiction, but within the Sphere of Influence.
 - Ensuring the agreement is sufficient as to legal form.
 - Include terms in the agreement to require compliance with the City's requirements for the services being provided, as well as recording.
 - Include enforcement provisions, including attorney's fees and cost recovery provisions.
3. Require annexation prior to connection to City water and/or wastewater. This option ensures that the City has full jurisdictional control over a property that is receiving City services.

However, this option is not generally preferred by property owners as there would be additional costs involved to go through the annexation process and a delay in their connection to City services.

4. Allow a hybrid model where single service connections, such as an existing single-family home with a failing well or on-site sewage system, can connect to City water and/or wastewater facilities with the execution of an extraterritorial service agreement, but a new or existing development requesting to receive City water and/or wastewater, such as a subdivision with multiple properties involved, is required to annex to the City prior to connection to City water and/or wastewater.

With any of the above-listed options, Council would be required to approve either the execution of an extraterritorial service agreement or the annexation request on a case-by-case basis.

Staff recommends Option 4, the hybrid model, as it allows for individual properties in distress to connect to City services in a timely manner, but requires new development projects and larger scale property connections to annex to the City prior to receiving City services.

Once Council provides direction, staff will prepare a formal policy in the form of ordinance updates to memorialize the process.

Fiscal Impact:

There will be minor costs associated with development of a legally-approved extraterritorial service agreement, and staff costs associated with the ordinance updates and preparing extraterritorial service agreements or assisting properties through the annexation process in the future.

Alternatives:

Direct staff to develop other alternatives for Council consideration.

Recommendation:

Establish a policy for water and/or wastewater connections outside of the City limits and direct staff to prepare the necessary documents to formalize and execute the policy.

Attachments:

1. Section 700-040 of Sutter County's Code of Ordinances
2. Section 6-5.217 of the City's Municipal Code

Prepared and Submitted by:

/s/ Diana Langley

Diana Langley
Interim City Manager

Reviewed by:

Finance

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City Attorney

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ATTACHMENT 1

Section 700-040 of Sutter County's Code of Ordinances

• 700-040 - APPLICABILITY

(a) Every residence, place of business, or other building or place where persons congregate, reside, or are employed in which sewage is generated that is not connected to a public sewer system shall be connected to an on-site sewage system (OSS) meeting the requirements of this Ordinance and Manual.

(b) An approved OSS permit issued prior to the effective date of this Ordinance and Manual shall be valid for the period of time that is stated on the permit. An approved OSS permit that was issued prior to the effective date of this Ordinance and Manual may be renewed according to the regulations existing at the time the permit was issued.

(c) An approved site evaluation issued prior to the effective date of this Ordinance and Manual shall be valid for a period of three years from the date of issuance.

(d) The Regional Water Quality Control Board (RWQCB) has authority and approval over:

- (1) Public sewer systems;
- (2) Industrial wastewater treatment facilities;
- (3) Package treatment systems or other waste systems using mechanical treatment or lagoons; and
- (4) On-site sewage systems with design flows through any common point above 5,000 gallons per day.

(e) The Department has authority and approval over:

- (1) On-site sewage systems with design flows through any common point up to 5,000 gallons per day;
- (2) Any on-site sewage system with a design flow greater than 5,000 gallons per day up to 10,000 gallons per day may be considered on a case-by-case basis after consultation with the RWQCB and for which jurisdiction has been transferred by written agreement to the Department.

(f) Sewage that is not treated through a public sewer system shall not be discharged to surface water, to the surface of the ground, or underground unless the discharge is permitted by RWQCB.

(g) When public sewer services are available within 200 feet of the Building or exterior drainage facility as measured along the usual or most feasible route of access, the owner of record must connect the residence or facility to the public sewer system if:

- (1) The residence or facility is served by an OSS which has failed; or
- (2) The residence or facility does not have an OSS.

Exceptions may be granted by the Environmental Health Director to Subsection G of this Section where the sewer main is not adjacent to the property line. Factors that may be

considered prior to making a decision to grant or deny an exception include, but are not limited to, the following:

- (1) Feasibility and cost of connection (connection and construction costs are greater than two times the replacement OWTS costs); and
 - (2) Reasonable expectation for future expansion plans of the sewer utility; and
 - (3) Willingness of the applicant to commit to connect to the public sewer in the future;
- and
- (4) Suitability of the parcel for siting an on-site wastewater system and a determination that no impairment to drinking water sources is likely to result.

(h) The owner of record of a residence or other facility served by a non-conforming repair shall abandon the OSS according to the requirements specified in [Section 700-190](#), and shall connect the residence or other facility to a public sewer system if the sewer utility allows the sewer connection and:

- (1) Connection is deemed necessary to protect public health by the Health Officer; or
- (2) A public sewer becomes available within 200 feet of the nearest Building or exterior drainage facility as measured along the usual or most feasible route of access.

(Ord. No. 1632, § 1, 3-28-2017)

ATTACHMENT 2

Section 6-5.217 of the City's Municipal Code

- **Sec. 6-5.217. - Outside sewers.**

(a) *Permits and fees.* Permission shall not be granted to connect any lot or parcel outside the City to any public sewer in or under the jurisdiction of the City unless a permit therefore is obtained from the City. Such permits shall be approved by the Council. The connection impact fees shall be paid at the option of the developer/applicant at either the issuance of the building permit or at certificate of occupancy for a proposed development project, not at the date of application for a permit. The amount of the impact fees to be paid shall be those fees in effect at the time the fees are paid at either the issuance of a building permit or certificate of occupancy. Exceptions to this requirement may be negotiated between the developer and the City as part of the entitlement and agreement process, subject to City Council approval. The City may require the developer/applicant to pay, as determined by the Public Works Director, inspection fees at the time of building permit.

(b) *Connection agreements.* In no event shall such permission be granted unless the applicant shall first enter into a contract in writing whereby they shall bind themselves, and their heirs, successors, and assigns, to abide by all laws, rules, and regulations in regard to the manner in which such sewer shall be used and the manner of connecting therewith, and also shall agree to pay all fees required for securing the permit and a monthly fee in the amount set forth by the City for the privilege of using such sewer.

(c) *Special outside agreements.* Where special conditions exist relating to an outside sewer, they shall be the subject of a special contract between the applicant and the City.

([Ord. No. 007-16](#), § 2, 6-21-2016)