

Item # 12E

**Carson City
Agenda Report**

Date Submitted: August 7, 2007

Agenda Date Requested: August 16, 2007

Time Requested: 5 Minutes

To: Mayor and Supervisors

From: Development Services - Engineering

Subject Title: Action to introduce on first reading Bill No. _____ an ordinance amending Title 12 Water, Sewerage and Drainage, Chapter 12.01 Water Connection Charges and Use Rates, Section 12.01.04 Payment of Connection Charge and Chapter 12.03 Sewer Connection Charges and Use Rates, Section 12.03.035 Payment of Connection Charge by requiring the owner of property to pay the connection fees due on issuance of a building permit for applications submitted after January 1, 2008 and other matters properly related thereto.

Staff Summary: The current code states that the application for a building permit pay the connection charges at the time that the permit is issued. An inequity appears when there are Tenant Improvements (TI) to a building that are paid by the lessee but which remain with the property. There have been numerous situations where an applicant has signed a lease and in the process of obtaining a building permit must come up with several thousands of dollar for the connection fees. As the connection capacities remain with the property, the tenant is making a significant improvement to the property. This would not prevent a property owner from recovering the connection fees from tenants throught lease payments.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce on first reading Bill No. _____ an ordinance amending Title 12 Water, Sewerage and Drainage, Chapter 12.01 Water Connection Charges and Use Rates, Section 12.01.04 Payment of Connection Charge and Chapter 12.03 Sewer Connection Charges and Use Rates, Section 12.03.035 Payment of Connection Charge by requiring the owner of property to pay the connection fees due on issuance of a building permit for applications submitted after January 1, 2008 and other matters properly related thereto.

Explanation for Recommended Board Action: This issue was sent to the Chamber of Commerce where it was distributed to the membership for their response. The results indicated that the responding membership felt that the cost should be born by the property owner.

Applicable Statue, Code, Policy, Rule or Regulation: CCMC Title 12

Fiscal Impact: Changes impact from tenant to property owner in certain circumstances. There is no impact to the City.

Explanation of Impact: See above

Funding Source: None

Alternatives: Do not modify the ordinance.

Supporting Material: Ordinance, Chamber Survey Results

Prepared By: Lawrence A. Werner, P.E., P.L.S., Director/City Engineer

Reviewed By:	_____	Date:	8/2/07
(Department Head)	<i>[Signature]</i>	Date:	8/2/07
(City Manager)	<i>[Signature]</i>	Date:	8-7-07
(District Attorney)	<i>[Signature]</i>	Date:	8/7/7
(Finance Director)	<i>[Signature]</i>		

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

ORDINANCE NO. _____

BILL NO. _____

AN ORDINANCE AMENDING TITLE 12 WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.01 WATER CONNECTION CHARGES AND USE RATES, 12.01.040 PAYMENT OF CONNECTION CHARGE AND CHAPTER 12.03 SEWER CONNECTION CHARGES AND USE RATES, 12.03.035 PAYMENT OF CONNECTION CHARGE BY REQUIRING THE OWNER OF PROPERTY TO PAY THE CONNECTION FEES DUE ON ISSUANCE OF A BUILDING PERMIT, EFFECTIVE ON APPLICATIONS SUBMITTED AFTER JANUARY 1, 2008, AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

SECTION I:

That Section 12.01.040 of the Carson City Municipal Code is hereby amended as follows:

12.01.040 Payment of connection charge. ~~[An applicant]~~ The owner of property subject to an application for a building permit ~~[, who has obtained a permit]~~ pursuant to Section 12.01.140, shall pay the water connection charge in effect on the date of application for [a] the building permit. ~~[Until December 31, 1988, one-half (1/2) of said charge is to be fully paid prior to the issuance of any building permit for construction. The balance of said charge shall be paid prior to occupancy or final inspection, whichever occurs first. In the event the water connection charge is not paid prior to occupancy of the building, water service will be immediately discontinued. On and after January 1, 1989, t]~~ The total charge is to be fully paid prior to the issuance of any building permit for construction.

SECTION II:

That Section 12.03.035 of the Carson City Municipal Code is hereby amended as follows:

12.03.035 Payment of connection charge. ~~[An applicant]~~ The owner of property subject to an application for a building or engineering permit ~~[, who has obtained a permit]~~ pursuant to Section 12.03.080, shall pay the sewer connection charge in effect on the date of application for a building or engineering permit. The total charge is to be fully paid prior to the issuance of any building permit for construction.

SECTION III:

That no other provisions of Title 12 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2007

PROPOSED by Supervisor _____

PASSED on _____, 2007

VOTES: AYES: Supervisors

NAYES: Supervisors

ABSENT: Supervisors

Marv Texeira, Mayor

ATTEST:

ALAN GLOVER, Clerk-Recorder

This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2007.

Chamber Survey – Possible City Code Change /Connection Fees

Dated: 05-16-07

Question: Should the property owner be required to pay for any and all connection fees that serve his property, or should the tenant be required to pay for any connection fees necessary to serve his/her business.

32 Yes - Property owner pays

5 No - Tenant pays

4 Undecided / Don't Know - Not the City's concern

Yes/Comments:

- I support this fee be paid by the owner and negotiated into the lease with the tenant.
- Generally accepted accounting principles say that the entity that benefits from the improvements (water/sewer facilities) should be responsible for the cost. Whether or not to pass on the cost to a lessee is a business decision to be resolved thru negotiation between the lessor and the lessee.
- Property owner should pay since the benefit stays with him.
- The property owner should be required to pay for any and all hookups. It is up to them to pass the cost along to the tenant.
- I think it is fairly straightforward since most tenants are not involved with the permit process that the property owner be responsible. I was trying to determine if there was a simple way to allocate to tenants, based on sq feet, nature of business, usage? Probably the easiest to manage is just up front to the owner as part of the permit process. Eliminates potential multiple permits for one building with multiple tenants, decreasing paperwork and administrative recordkeeping for the City. Let me know what the outcome is.
- Defiantly (*definitely?*), the property owner should pay and the cost should be passed along to the tenants.
- Yes, the fees should always be paid by the property owner. He can than choose to pass on the expense or not.
- The property owner be required to pay for any and all connection fees that serve his property.
- The property owner should pay for the additional water/sewer fees. They can recover those with changes to the rent.
- Hello, this is a NO BRAINER - the OWNER is the responsible party and should pay his/her own respective bills- End of Discussion - take your ball and go play somewhere else!
- I believe that the property owner should be charged the fees as it could always be included in the lease agreement, etc. I just can't understand why a tenant would be charged the fees as they are only renting and don't own the property. Hope my input was helpful!
- I believe that the building owner should be responsible for all fees for water and sewer services, as it increases the use and value of his property, not the tenant.
- The connection fees should be paid by the owner, and passed on by agreement to the tenant, either as a one time charge or amortized over the lease. Or the owner could take a deduction as a cost of business. This would fall in line with a residential rental.
- Thank you for soliciting our input. My position is that water/sewer connection fees should be paid by the landlord, not the tenant to whom the property is leased. That would be consistent with building a new house and later renting it out.
- I lease space for a mortgage brokerage. I need water service for a restroom use. I don't feel that I should have to pay for that. I consider it an improvement to the landlord's property. The landlord

should pay for this.

- It is my belief that the property owner should pay the fee. The connection to city water/sewer is an integral part of the owner's asset. How the owner then pays for his asset, including the connection fee, is his affair.
- As the tenant it is not my responsibility.
- The property owner should pay & collect from the tenant if he desires. Thanks for asking.
- I feel it is the responsibility of the property owner to pay all fees affiliated with his/her property. He can collect any fees due from tenant in additional rent. This is really illustrated in NRS rules and regs from the Real Estate Division.
- I feel that the responsibility falls on the landlord since they get the ultimate benefit. They can decide if the cost is "worth" the tenant.
- Do you really need help with this question? This should be a no brainer, the property belongs to the owner and they should be paying for their own improvements that the city requires. I can't really believe that this has come up as a question.
- Considering the fact that I am a tenant leasing space, I feel it is the property owners responsibility to pay the connection fees. If he/she would like to pass that on to the tenant that is something they can negotiate.
- I think that as the fees are one time to the property, the property owner should be responsible. As stated, reimbursement of those fees by the tenant can be dealt with in the lease agreement between the owner and the tenant.
- I do not feel that the tenant should have to pay for the connection. The property is owned by the landlord and all fees and costs in connection to their property should be charged to them, they are the ones to benefit.
- I believe that the building owner should pay all fees for services which stay with the building. The landlord is free to collect those fees from the tenant through negotiated rent increase or fees.
- Absolutely the property owner should pay for the hookup, unless the renter wants something special.
- Thank you for the opportunity to comment. I believe the property owner should pay the fees. These charges could be a pass through to the tenant however, they should be the property owner's responsibility. If the tenant was responsible and he did not pay, I believe you would look to the owner for compensation.

No/Comments:

- The next tenant may not need or desire what the previous tenant had.
- I believe the tenant should pay for the additional hookups and the fees, as the use is tenant specific. The tenant usually pays for the improvements required and permits, etc. There is a good incentive for the tenant to remain in a location when there is an investment in building improvements. Leave the code alone and charge the tenants in the permit process. Thanks for asking.
- This code should not be changed, a lot of leases are based on triple net leases and things like this are taken into account between the two parties when leasing properties.

Don't Know/Comments:

- The City only requires that the connection fee be paid as part of the building permit fee. It is not really privy to who is actually paying it. Both parties are interested in the connection and building permit, it is up to them to who pays. Connections stay with the property . . . just like all items affixed to the property when a tenant moves out. Am I over simplifying?
- I agree that the connection fees are for the property location and should not be transferable to somewhere else, whether or not it is the same business entity. As long as this is clearly spelled out, it should not matter to the City who pays the fees, as long as they are paid as part of the permitting process. Why should the City care? It is part of the negotiations between the tenant and the

landlord. Government should not interfere with the conduct of business any more than necessary.
Thanks for soliciting input and I hope this helps.

- Based on the information provided, the code change seems to make sense. I would like to hear opposing viewpoints before I made up my mind.
- I think a meeting of commercial property owners and possible tenants should be held. What exactly is the added water fee for. I believe ONLY for water right. I would like to speak to you in person.
(Larry Werner responded)