ORDINANCE NO. 1803

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE TITLE 13 – PUBLIC SERVICES – CHAPTER 13.12, "SEWER SERVICE," BY REPEALING AND REENACTING SECTION 13.12.150 RELATING TO CONNECTIONS OUTSIDE CITY

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, "Sewer Service," is hereby amended by repealing and reenacting Section 13.12.150 relating to connections outside the City and shall read as follows:

A. WHEREAS:

a. San Joaquin County will retain its authority over land use approval for wineries located within County jurisdiction.

b. The City of Lodi's General Plan contains the following land use element goals:

i. Policy LU-A.1 – The City shall seek to preserve Lodi's small-town and rural qualities.

ii. Policy LU-A.4 – The City shall promote reinvestment in downtown Lodi and in the Eastside area that upgrades the general quality of development in these areas.

iii. Goal LU-B – To preserve agricultural land surrounding Lodi and to discourage premature development of agricultural land with nonagricultural uses, while providing for urban needs.

iv. Policy LU-B.1 – The City shall encourage the preservation of agricultural land surrounding the City.

v. Policy LU-B.2 – The City should designate a continuous open space greenbelt around the urbanized area of Lodi to maintain and enhance the agricultural economy.

vi. Policy LU-B.6 – The City shall encourage San Joaquin County to retain agricultural uses on lands adjacent to the City.

vii. Goal LU-D – To promote and retain development in downtown Lodi.

viii. Policy LU-D.1 – The City shall preserve and promote downtown Lodi and the City's social and cultural center and an economically viable retail and professional office district.

ix. Policy LU-D.3 – The City shall enhance pedestrian activity and pedestrian amenities in downtown Lodi.

c. The City encourages compact development and discourages leapfrog development and urban sprawl within the Highway 12/Interstate 5 corridor, all of which would be inconsistent with the above general plan goals. The City's General Plan is committed to the above goals within its own boundaries as well, stating the following:

a. A-5 The City shall require specific development plans in areas of major new development.

b. E-2 The City shall promote downtown Lodi as the primary pedestrian-oriented, commercial area of Lodi.

c. E-4 The City shall ensure the new commercial development be designed to avoid the appearance of strip development.

d. E-7 In approving new commercial projects, the City shall seek to ensure that such projects reflect the City's concern for achieving and maintaining high quality development.

d. Providing wastewater treatment service to Flag City on the condition that service not be afforded to developments that conflict with the goals set forth herein furthers those goals by concentrating development in an existing County Service Area with set boundaries.

e. County acknowledges the goals set forth in the Lodi General Plan as set forth above and has similar provisions in its General Plan which encourage agricultural uses, compact land use and development, and discourage "leap frog development" and "urban sprawl." Toward these ends, the County General Plan provides:

1. To make efficient use of land and promote a functional development pattern with varied and compatible land uses.

2. To minimize the effect on agricultural lands and other environmental resources while providing for orderly growth.

3. To create a visually attractive County.

4. To avoid the problems and costs imposed on local government by development that does not have adequate services.

5. Rural Communities Shall:

(a) be planned to have minimal growth, mainly infill development, with expansion discouraged;

(b) be planned to serve the immediate needs of the community's residents or the surrounding agricultural community;

(c) have a minimum land area of 50 acres or have been identified on the General Plan 1995 map as a residential area.

6. Development shall be orderly and compact.

7. Development should occur on vacant lots within existing communities as "infill" before extending beyond the current developed areas of a community.

8. Freeway Service.

(1) Function: Provide for commercial uses oriented almost exclusively to serving the needs of the freeway traveler.

(2) Typical Uses: Travel-related businesses including gasoline service stations, food and beverage sales, eating and drinking establishments, and hotels and motels.

(3) Development and Locational Criteria: Freeway Service areas shall be:

(A) designated only adjacent to full freeway interchanges where development will be easily accessible and visible to the freeway traveler.

(B) limited in number to encourage clustering of uses at selected interchanges;

(C) limited in area in order to reduce impacts on surrounding land uses and control the physical and visual extent of these areas;

(D) developed so that buildings occupy no more than 60 percent of the lot and are no more than 3 stories in height; and

(E) designed in an attractive manner that creates a favorable impression of the County by considering the overall site design, landscaping, scale of development, signage, relationship to adjacent uses, circulation and parking, and architecture.

f. There is a need for upgraded sewer treatment facilities to service Flag City and the parties wish to cooperatively ensure that any development that occurs in Flag City is orderly, compact and in compliance with the goals of the City and County General Plans.

B. NOW THEREFORE BE IT FURTHER ORDAINED AS FOLLOWS:

1. Service Outside Lodi. Except as set forth below, no discharge from private facilities or properties outside the City of Lodi shall be allowed into the Domestic Sewerage or storm drainage systems. The City Council may by contract allow connection from 1) winery facilities outside Lodi to the Industrial Sewerage System on the terms set forth in this section so long as the system has adequate existing capacity to service the waste 2) publicly owned wastewater systems ("Public District") to the Domestic Wastewater Treatment System on terms set forth in this section so long as the system has adequate existing capacity to service the waste.

2. Terms of Private Industrial Connection. Any winery wastewater connection permitted pursuant to the Contract called for in this Section shall contain the following minimum terms:

a. Permit: Applicant shall comply with the terms of the Industrial System Discharge Permit to be issued by the City, which will include but not be limited to limitations on flow, BOD, ph, TDS, and suspended solid concentrations and prohibitions on discharge of hazardous waste in conformance with the City's Discharge Permit.

b. Rate/Surcharge: Winery's rate for discharge shall be set at 150 percent of the City's standard published rate for Industrial Waste.

c. Capacity Charge: Winery shall pay a one-time capacity charge based on annual flow and BOD loading prior to connection per this chapter.

d. Non-Assignment: Applicant may not sell capacity or accept wastewater from other locations.

e. Downtown Retail Presence: Applicant shall open and operate a wine tasting room to market its products in Downtown Lodi during the entire term of its connection to the City's sewer system. The establishment shall be operated within the following minimum requirements:

i) it shall be at least 500 square feet, have its products available for sampling and sale, and be open a minimum of 40 hours per week, including Saturday and Sunday and shall be located in Downtown Lodi as defined by the area bordered by Church Street, Lodi Avenue, Lockeford Street, and the Union Pacific Railroad tracks.

ii) If this condition cannot be met within 12 months of connection, Applicant shall pay an annual downtown development and promotional in-lieu fee in the amount established by the City Council. The fee shall be retroactive for one year and shall be assessed annually (until such time as the requirements of subsection i of this paragraph have been satisfied) as annually adjusted according to the Bay Area-All Items Consumer Price Index. If condition i above cannot be met within six years of connection, this Agreement will terminate and Applicant will be required to make alternate arrangements for its wastewater.

f. Annexation. Applicant, in consideration for receiving City sewer service, will consent to the annexation to the City of Lodi of its property served by the City Industrial Sewerage system, waives any right to protest the annexation, and assigns to the City any right to vote on the annexation. Annexation shall occur when and if the City deems the annexation of the subject property feasible and advisable. In the event the annexation is sought by Applicant, Applicant agrees to pay City an amount to cover the subject property's proportionate share of the costs to conduct the annexation. In the event that the Applicant does ultimately connect to City service, Applicant agrees to enter into a short-form memorandum of agreement expressing the obligations of this paragraph in recordable form.

3. Terms of Public District Connection:

Any delivery of wastewater permitted pursuant to this section shall be subject to the following minimum terms:

a. Permit: Public District shall comply with the terms of a Discharge Permit to be issued by the City which will include but not be limited to limitations on maximum flow, BOD, ph, TDS and suspended solid concentrations and prohibitions on discharge of hazardous waste in conformance with the City's NPDES Permit. The terms of this Discharge Permit will be no more stringent than those required under the City's NPDES permit. However, City may change the terms of the discharge permit without notice if necessary to comply with State or Federal requirements.

b. Volume: Limits will be set by contract that cannot exceed the White Slough Wastewater Treatment Plant's capacity.

c. Rate/Surcharge: Public District 's charges will be as established by the City for its high strength customer users plus a surcharge in an amount to be set by contract.

d. Capacity Charge: Public District shall pay a one-time capacity charge based on the then-current rates for new city development at the time of connection. (These charges are adjusted annually). Additional capacity charges at the current City rates will apply for each increment of effluent over the amount initially paid. Capacity charge reductions or credits may be granted for steps taken by Public District to minimize impacts to City's overall treatment plant capacity through pre-treatment, off-peak delivery, or other mutually agreed strategies.

e. Administrative Charge: Public District shall pay City a fee to be set by contract as a one time administrative charge upon the execution of such contract.

f. Public District will be solely responsible for all costs associated with installing a pipeline ("Collection Facilities") to connect to Lodi's System.

g. City will bill for its services directly to Public District and not to individual customers. Annual billing will begin with commencement of flow to the City's facility and will be billed in advance for a twelve (12) month period, based on estimated flow and strength. Subsequent annual billings will be based on actuals for the prior twelve (12) months. Public District will pay all invoices within thirty days of the date of the invoice.

h. Neither Public District will knowingly allow any person or entity to discharge to its Collection Facilities whose property is outside the Public District Service Area, without prior City approval, which City may withhold in its absolute discretion.

i. Reimbursement. Public District shall reimburse the City for all costs incurred by the City in connection with the project.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. In the event that any portion of this Ordinance is determined to be invalid or illegal then the entire Ordinance will be repealed and reenacted back to its form prior to September 21, 2005.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 3rd day of October, 2007.

BOB JOHNSON
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1803 was introduced at a regular meeting of the City Council of the City of Lodi held September 19, 2007, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held October 3, 2007, by the following vote:

AYES:	COUNCIL MEMBERS –	Hansen, Katzakian, Mounce, and Mayor Johnson
NOES:	COUNCIL MEMBERS –	Hitchcock
ABSENT:	COUNCIL MEMBERS –	None
ABSTAIN:	COUNCIL MEMBERS –	None

I further certify that Ordinance No. 1803 was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney