

**VALLEJO SANITATION AND FLOOD CONTROL DISTRICT
STORM DRAINAGE SERVICES AND FACILITIES
ORDINANCE NO. 2017-64B**

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**VALLEJO SANITATION AND FLOOD CONTROL DISTRICT
STORM DRAINAGE SERVICES AND FACILITIES
ORDINANCE NO. 2017-64B**

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF STORM DRAINAGE SERVICE CHARGES FOR SERVICES AND FACILITIES FURNISHED BY DISTRICT'S STORM DRAINAGE SYSTEM, COLLECTION PROCEDURES FOR SUCH CHARGES, PENALTIES FOR DELINQUENCY IN PAYMENT OF SUCH CHARGES, AND RESTRICTION ON USE OF FUNDS DERIVED.

The Board of Trustees of Vallejo Sanitation and Flood Control District does ordain as follows:

SECTION 1. PURPOSE

The purpose of the storm drainage service charge is to raise revenue for the cost of maintenance, operation and replacement, and capital requirements of the Vallejo Sanitation and Flood Control District facilities used for collection, transport, quality control, and discharge of stormwater flows. The funds derived from the storm drainage service charge shall be used only for those purposes provided for in the District's Enabling Act (Stat 1st Ex Session 1952 chap. 17 p 351, effective May 19, 1952, as amended; see Deering's Uncodified Water Acts, Act 1410; West's Uncodified Water Acts, sec 67). The rates for services described within this ordinance shall be adopted by resolution of the Board of Trustees, and adjusted as needed, subject to the provisions of Article XIII, Section 6, of the California Constitution, and other applicable California law.

SECTION 2. DEFINITIONS

Unless the context specifically indicates otherwise, the meanings of terms used in this Ordinance are applicable for this Ordinance only and do not necessarily correspond to definitions that may be used by City or County zoning, planning or assessment designations and shall be as follows:

- A. **"Billing Period"** shall be a monthly, bimonthly, quarterly or yearly cycle as established by the District for the customer or user classification.

- B. **“Board”** shall mean the Vallejo Sanitation and Flood Control District Board of Trustees.
- C. **“Commercial”** shall mean any premises used for commercial, industrial, retail, civic, religious, business, or governmental purposes.
- D. **“County”** shall mean County of Solano.
- E. **“Customer”** shall mean the record owner of a parcel within the jurisdiction of the Vallejo Sanitation and Flood Control District, as reflected on the last equalized assessment roll for the County or, if applicable, as reflected in any deed or other satisfactory evidence of change of ownership recorded with the County Recorder since the date of the last equalized assessment roll. The Customer is, and shall be, liable for all charges for storm drainage service to the parcel.
- F. **“Customer-Designee”** shall mean a person(s) whom a Commercial Customer designates to be billed for storm drainage charges in addition to the Customer, as provided in a Customer Service Agreement. The Customer and the Customer-Designee shall be jointly and severally liable for the storm drainage service charges and fees.
- G. **“Customer Service Agreement”** shall mean a written agreement between a Commercial Customer, the District and any person whom the Customer designates to be billed for storm drainage service in addition to the Customer (Customer-Designee). The Customer and the Customer-Designee shall be jointly and severally liable for storm drainage charges.
- H. **“District”** shall mean the Vallejo Sanitation and Flood Control District.
- I. **“Fee”** shall mean the amount collected to cover the cost of a specific activity.
“Impervious Surface” shall mean a surface that water does not penetrate, such as concrete, asphalt, roofs, etc.
- J. **“Multiple-Family Dwelling”** shall mean any premises designed, improved or used as a residence for two or more families living independently of each other in two or more

structurally joined dwelling units with separate entrances; this term shall include apartment houses and duplexes.

- K. **“Residential”** shall mean Single-Family and Multiple-Family Dwellings.
- L. **“Residential High Density”** shall mean Multiple-Family Dwellings, condominium complexes, and mobile home parks.
- M. **“Runoff”** shall mean that portion of precipitation that drains away from a parcel of property; *i.e.*, that is not absorbed by the ground.
- N. **“Schedule”** shall mean the current Schedule of Fees and Charges adopted by resolution of the Board, and available on the District’s [website](#).
- O. **“School”** shall mean any public, private, or commercial institution for teaching or education purposes.
- P. **“Single-Family Standard”** shall mean premises designed, improved or used as a residence for one family, on a lot no larger than 10,450 square feet.
- Q. **“Single-Family Large Lot”** shall mean premises designed, improved or used as a residence for one family, on a lot larger than 10,450 square feet.
- R. **“User Classification”** shall mean appropriate groups of customers as determined by the District for the purpose of administering this Ordinance.

SECTION 3. BASIS OF RATES – STORM DRAINAGE SERVICE CHARGE

Each Customer shall be charged a storm drainage service charge for the applicable Billing Period. The revenue derived from storm drainage service charges shall be based on the funds required for the operation and maintenance, debt service, insurance, and replacement or improvement of capital facilities related to storm drainage service. The storm drainage service charge to each Customer shall be based on the proportional cost of the service attributed to the applicable parcel.

SECTION 4. STORM DRAINAGE SERVICE CHARGE – RESIDENTIAL CUSTOMERS

A storm drainage service charge shall be charged to each Residential Customer of the District pursuant to the current Schedule.

Properties used for both residential and commercial purposes shall be considered non-Residential, as described in Section 5 of this Ordinance.

Storm drainage service charges for vacant or under-construction residential land are addressed in Section 5 of this Ordinance.

SECTION 5. STORM DRAINAGE SERVICE CHARGE – NON-RESIDENTIAL CUSTOMERS

A storm drainage service charge shall be charged to each non-Residential parcel within the District’s jurisdiction. No annual bill below \$5.00 shall be issued for any non-Residential lot. Land use types will be classified into one of four fee groups, as follows:

1. **Non-Residential Group 1 (Light Runoff Loads)** will be charged a rate pursuant to the current Schedule, per thousand square feet per year. The minimum billable lot size for this group is 6,363 square feet. Land use types classified as non-Residential Group 1 include:

| County Assessor’s Parcel Classification (modified) | |
|---|--|
| <u>Land Use Code</u> | <u>Description</u> |
| 1100 | Vacant Single Family Development (undeveloped or under construction) |
| 2000 | Vacant Multi Family Development (undeveloped or under construction) |
| 3000 | Vacant Commercial (undeveloped or under construction) |
| 4000 | Vacant Industrial (undeveloped or under construction) |
| 6100 | Marshland |
| 6400 | Range and Watershed |
| 8200 | School – Undeveloped |
| 9800 | Undeveloped |

2. **Non-Residential Group 2 (Medium Runoff Loads)** will be charged a rate pursuant to the current Schedule, per thousand square feet per year. The minimum billable lot size for this group is 1,072 square feet. Land use types classified as non-Residential Group 2 include:

| County Assessor's Parcel Classification (modified) | |
|---|---------------------------|
| <u>Land Use Code</u> | <u>Description</u> |
| 5000 | General |
| 8100 | Religious Facility |
| 8400 | Cemetery |
| 8200/9800 | School – Developed |
| 9800 | Public Park – Landscaped |

3. **Non-Residential Group 3 (Heavy Runoff Loads)** will be charged a rate pursuant to the current Schedule, per thousand square feet per year. The minimum billable lot size for this group is 488 square feet. Land use types classified as non-Residential Group 3 include:

| County Assessor's Parcel Classification (modified) | |
|---|------------------------------------|
| <u>Land Use Code</u> | <u>Description</u> |
| 3100 | Marina |
| 3300 | Mixed Use Commercial & Residential |
| 3400 | Service Station |
| 3500 | Commercial Sales and Services |
| 3800 | Hotel, Motel |
| 4400 | Manufacturing and Warehousing |
| 8300 | Hospital |
| 8700 | Clubs and Lodges |

4. **Non-Residential Group 4 (Special)** shall be used by the District for developing storm drainage service charges for those lots the District Manager or his/her designee deems uniquely not conforming to the typical land use types outlined in non-Residential Groups 1, 2 or 3, and will be charged a two-part rate.

Part one, the hydraulic loading fee, is calculated by multiplying the rate per impervious thousand square feet, pursuant to the current Schedule, by the effective impervious area of the parcel. Part two, the pollutant fee, is calculated by multiplying the pollutant base rate per thousand square feet, pursuant to the current Schedule, by the effective pollutant coefficient for that parcel, and then multiplying the product by the total land area of the parcel. Pollutant coefficient descriptors are provided in the most recent Stormwater rate study and available from the District upon request.

Non-Residential lots with the Assessor's land use code 9800 – Government & Miscellaneous (excluding schools and parks), will be reviewed individually by the District and billed according to the actual property use.

SECTION 6. SERVICE CHARGE CREDITS

Credits may be applied to the service charge for properties with stormwater management facilities or other comparable provisions of design and construction that substantially mitigate the effect of stormwater Runoff from the property on the District's stormwater drainage system, or materially reduce the cost for the District to provide stormwater management services.

Mitigations to the quantity and quality of Runoff will be considered according to the most current version of the District's Stormwater Service Charge Credit Policy. Credit may be granted against the stormwater service charge up to a maximum percentage reduction as provided in the current Schedule. Commercial, manufacturing and warehousing, and Multiple-Family Residential properties may be eligible for a mitigation credit. Credits shall be applied on a case-by-case basis. Customers that pay a flat-rate stormwater service charge are not eligible for mitigation credits.

SECTION 7. PETITIONS FOR REVIEW AND/OR ADJUSTMENT

With the exception of Customers that pay a flat stormwater service charge, a Customer that believes the property subject to the service charge has been improperly classified or that the service charge has been calculated incorrectly, may file a petition in writing for review and/or adjustment with the District Manager.

The District Manager will review and consider the petition in accordance with the most current version of the District's Stormwater Service Charge Petition and Appeal Policy. The burden of proof shall be assigned to the petitioner, who will be responsible for submitting a detailed statement establishing the basis for the appeal and documents supporting the Customer's assertion that the property should be assigned to a different classification, or that the impervious area measurements used to calculate the service charge were incorrect. The Stormwater Petition and Appeal Policy will provide for an appeal of an adverse decision of the District Manager, to the Board.

SECTION 8. METHOD OF BILLING AND COLLECTION

The District shall determine the method of billing and collection for each User Classification for the storm drainage service charge.

SECTION 9. POWER TO INSPECT PREMISES

In order to effect the powers of this Ordinance pursuant to Section 6523.2 of the Health and Safety Code of the State of California, and the police powers granted by the Legislature in the District's Enabling Act, the District Manager, or his or her authorized representatives, shall have the power and authority to enter upon private property for the purposes of inspection and maintenance of the stormwater facilities, including but not limited to ascertaining the nature of such premises, the type of activities carried on therein, and any other facts or information reasonably necessary to determine the applicability of any storm drainage service charges to such premises, or the amount of such service charges.

SECTION 10. VACANCY

Storm drainage services continue to be provided to developed and undeveloped parcels whether or not they are occupied or being used. No credit, adjustment, or refund of the storm drainage service charge will be made to any Customer because the premises or any part thereof are or have been vacant or unused.

SECTION 11. REFUNDS

When any storm drainage service charge refund becomes due and owing by virtue of action of the Board or by virtue of any error made in ascertaining the charge applicable to any Customer, the District Manager or his or her designee is authorized to make payable such monies from the specific fund established for the deposit of storm drainage service charges, either by check or credit to the Customer's account. An application for refund shall be subject to any applicable statute of limitations established by law.

SECTION 12. WHERE PAYABLE

All storm drainage service charges shall be payable at the office of the District, or as noted on the billing. If the District implements billing service charges on the property tax bill through the County of Solano they would be paid to the County of Solano as directed on the property tax bill.

SECTION 13. GOVERNMENTAL OR PUBLIC PREMISES

The provisions of this Ordinance shall apply to governmental or public premises as well as to premises which are not governmental or public premises. As used herein the term "governmental or public premises" means and includes premises owned, controlled or used by (1) the United States Government or any department or agency thereof, (2) the State of California or any department or agency thereof, (3) any City, County, town or any of their departments and agencies, (4) any school district or other special district, and (5) other governmental or public entities. This section is merely explanatory and declaratory of the existing provisions of this Ordinance.

SECTION 14. STORM DRAINAGE SERVICE CHARGE BILLING

All storm drainage service charges may be billed in advance, monthly, bi-monthly, quarterly or yearly as determined by the District Manager. The Board may also elect to bill by way of inclusion on the annual County of Solano secured property tax bill pursuant to California Health & Safety Code section 5473 *et seq.* . The billing statement may be combined with statements for other services, and may be combined with billings for other utilities. All billings for storm drainage service charges for a property shall be in the name(s) of the Customer (and Customer-Designee, if any), as shown on the District's billing records.

SECTION 15. PAYMENT OF CHARGES; DELINQUENCIES

All charges and fees made pursuant to the provisions of this Ordinance or any subsequent Ordinance of the District, or any amendment thereto, shall be due and payable upon receipt of notice thereof, or upon any other due date specified therein. All such charges and fees shall become delinquent thirty (30) days after mailing or delivery of notice thereof, or after the due date if specified therein. Any charge or fee that becomes delinquent shall have added to it a penalty charge equal to a percentage of the charge or fee that became delinquent and shall bear interest at a percentage per month on the basic charge and the penalty, pursuant to the current Schedule, and subject to the limitations contained in California Health & Safety Code section 5473.10. Any non-sufficient funds (NSF) checks received or funds not honored by a financial institution shall incur a penalty fee pursuant to the current Schedule. Any payment made toward an outstanding delinquency shall be applied against the oldest portion of the total amount delinquent.

SECTION 16. DELINQUENT CHARGES AS DEBT TO AGENCY; COURT ACTION

Any charges or fee established by this Ordinance and any subsequent Ordinances enacted by the District, and all amendments thereto, which become delinquent pursuant to the terms of the Ordinance establishing the same, and all penalties or delinquent charges accrued thereon, shall constitute a debt due to the District, for which the District may sue the party or parties responsible therefor, in any civil court of competent jurisdiction for collection of same.

The prevailing party in any such civil action shall be awarded reasonable attorneys' fees to be fixed by the court, in addition to any other relief granted or other costs awarded.

Any remedy provided in this section is in addition to any other remedy provided in this Ordinance.

SECTION 17. DELINQUENT CHARGES TO CONSTITUTE LIEN

Pursuant to California Health & Safety Code section 5473.11:

- A. The District shall notify the assessee shown on the latest equalized assessment roll whenever delinquent and unpaid charges for services which would become a lien on the property pursuant to subdivision B, below, remain delinquent and unpaid for 60 days.
- B. The amount of the unpaid charges for services and facilities furnished by the District shall, at the discretion of the District, be secured at any time by recording a certificate of lien in any county specifying the amount of the unpaid charges and the name and address of the person liable for those unpaid charges. From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county of recordation owned by the person or afterwards, and before the lien expires, acquired by him or her.
- C. The lien shall have the force, priority, and effect of a judgment lien and shall continue for 10 years from the date of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within 10 years from the filing of the certificate or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of this filing the lien shall be extended to the real property in such county for 10 years unless sooner released or otherwise discharged.

SECTION 18. COLLECTION OF DELINQUENT CHARGES ON TAX ROLL

Pursuant to the provisions of Sections 5470 through 5474.10 of the California Health & Safety Code, the District hereby elects, as an alternative procedure for the collection of delinquent charges or fees established by this Ordinance or any subsequent ordinance of the District, or any amendments thereto, to have all such delinquent charges or fees 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 collection of general property taxes. The District shall prepare and file the written report on the parcels of real property for which there are delinquent charges or fees greater than one billing cycle, and give notice and hold the public hearing thereon, all pursuant to the aforesaid provisions of the Health & Safety Code. Any delinquent charge or fee collected on the tax roll, shall have added to it a processing fee per parcel, pursuant to the current Schedule, as well as a release of lien recording fee(s) in the amount provided in the County Assessor-Recorder's fee schedule.

SECTION 19. COURT ACTION TO ENFORCE LIEN

As a separate, distinct and cumulative remedy for collection of delinquent charges or fees, and any interest or penalties thereon, an action may be brought in the District's name in any court of competent jurisdiction to enforce or foreclose the lien provided for in Section 17 hereinabove. The prevailing party in any such civil action shall be awarded reasonable attorneys' fees to be fixed by the court, in addition to any other relief granted or other costs awarded.

SECTION 20. COLLECTION OF PAYOFF DEMAND PROCESSING FEE

A payoff demand document requests information on amounts due for utility charges and liens (if any), usually in connection with a transfer of property ownership. Amounts include unpaid balances to the date of close of escrow, penalties and interest as applicable, and processing fees as applicable. Any person requesting a payoff demand from the District is required to pay a payoff demand processing fee pursuant to the current Schedule. Upon the request of government entities described in Government Code section 6103 and receivers

appointed by the court pursuant to Health & Safety Code section 17980.7(c), the District will not require advance payment, and will add the processing fee to its payoff demand.

SECTION 21. SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, unconstitutional or unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares that it would have passed the provisions of this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases may be declared invalid, unconstitutional or unenforceable.

SECTION 22. PUBLICATION AND MINUTE ENTRY/EFFECTIVE DATE

This Ordinance shall be published once in a newspaper of general circulation printed and published in the District, within 15 days from and after its adoption. It shall take effect and be in force on September 9, 2017. The passage of this Ordinance shall be entered in the minutes of the District.

ADOPTED by the Board of Trustees of the Vallejo Sanitation and Flood Control District on the 11th day of July, 2017 by the following vote:

- AYES:** President Sampayan; Trustees Brown (Alternate), Dew-Costa, Malgapo, McConnell, Miessner, and Sunga.
- NOES:** None
- ABSENT:** Trustee Hannigan and Verder-Aliga.
- ABSTAIN:** None

WITNESS my hand and Seal of said District this 11th day of July, 2017.



HOLLY M. CHARLETY
District Clerk