

**VALLEJO SANITATION AND FLOOD CONTROL DISTRICT
ESTABLISHING FACILITIES AND ISSUANCE OF PERMITS TO
CONNECT TO THE STORM DRAIN SYSTEM
ORDINANCE NO. 2017-70B**

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AN ORDINANCE ESTABLISHING FEES TO PROVIDE FOR STORM DRAIN FACILITIES AND
THE ISSUANCE OF PERMITS TO CONNECT TO THE DISTRICT STORM DRAINAGE
SYSTEM

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

SECTION 1. PURPOSE

The Board of Trustees recognizes that development or improvement of property may impose increased demands on the storm drain system. These increased demands require that the system be constructed, modified, upgraded, or increased in size. Additionally, the District's National Pollutant Discharge Elimination Systems (NPDES) Permit requires structural and operational measures to reduce the pollutant load of storm water runoff. The purpose of this Ordinance is to establish fees and charges applicable to the development and improvement of property, in order to assure the construction of and preservation of adequate storm drainage facilities to protect the public health, safety, and welfare of the residents of the District.

SECTION 2. DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance are applicable for this Ordinance only, and shall be as follows:

- A. **“Accessory Dwelling Unit (ADU)”** shall mean a dwelling unit as provided and described in California Government Code §65852.150 *et seq.*, and as may be described and regulated by the City of Vallejo or the County of Solano, as applicable. An ADU may be contained within the existing space of a single-family residence or accessory structure, or attached to a single-family residence adding floor area to the existing structure, or detached from the single-family dwelling unit but located on the same Parcel as the existing dwelling. An ADU provides complete independent living facilities for one or more persons. It includes permanent facilities for living, sleeping,

eating, cooking, and sanitation on the same Parcel as the single-family dwelling unit is situated.

- A.1. **“Attached Accessory Dwelling Unit”** shall mean an Accessory Dwelling Unit that is attached to a single-family residence but not entirely contained within the living area space of the existing single-family residence. An Attached Accessory Dwelling Unit adds to the floor area of the existing Structure.
- A.2. **“Contained Accessory Dwelling Unit”** shall mean an Accessory Dwelling Unit that is entirely contained within the existing living area square footage or “footprint” of the existing single-family residence or accessory structure. Garages are not considered part of the living area of the singly-family residence.
- A.3. **“Detached Accessory Dwelling Unit”** shall mean an Accessory Dwelling Unit detached from the single-family residence but located on the same Parcel as the existing dwelling.
- B. **“Best Management Practices (BMPs)”** shall mean facilities and practices designed to reduce the pollutant load to storm water.
- C. **“Board”** shall mean the Vallejo Sanitation and Flood Control District Board of Trustees.
- D. **“Charge”** shall mean the amounts assessed for storm drainage connection and capacity, and related fees.
- E. **“Develop or Development”** shall mean any Improvement to a Parcel on which no previous Improvements have been constructed.
- F. **“District”** shall mean the Vallejo Sanitation and Flood Control District.
- G. **“Fee”** shall mean the amount collected to cover the cost of a specific activity.

- H. **“Flows”** shall mean flows as determined (typically in Gallons Per Day [GPD]) in accordance with the District Design Criteria. The terms “flow” and “flow rate” are used synonymously.
- I. **“Improvement”** shall mean any alteration of, or addition to, real property that changes the amount, quality or rate of storm water drainage from the property.
- J. **“Multiple-Dwelling Unit”** shall mean any building or buildings on a single legal Parcel, constructed for occupancy by more than one family. Each of the separate living quarters shall be referred to as a Unit.
- K. **“Parcel”** shall mean an assessor’s Parcel.
- L. **“Redeveloped or Redevelopment”** shall mean either the construction of any Improvement where existing Structures have been removed or will be removed from the property to allow the Improvement, or a change in the use category, number or size of a structure or for fee purposes; e.g., Single-Family Dwelling Unit to Commercial Unit.
- M. **“Schedule”** shall mean the current Schedule of Fees and Charges, adopted by resolution of the Board, and available on the District’s website.
- N. **“School”** shall mean any public, private, or commercial institution for teaching or educational purposes, including business or occupational Schools operating for a profit.
- O. **“Single-Family Dwelling Unit”** shall mean any building constructed for occupancy by one single family.
- P. **“Structure”** shall mean a building or an Improvement.
- Q. **“Unit”** shall mean the method of measurement (e.g., square foot, room, student, etc.) used when fees or other numerical determinations are involved. It may mean a use classification when describing a type of facility.

SECTION 3. PERMIT TO CONNECT

A storm drainage connection permit is required to Develop or Redevelop any Parcel, property, and/or Structure within the District's boundary. The District's issuance of a permit shall be contingent upon proper application at the District's office; the applicant's payment of connection fees and other applicable fees; the applicant's submission and the District's approval of any required plans; and submission of properly prepared and executed rights of entry and easement documents, if required.

A storm drain connection permit shall be considered a storm drain encroachment permit when District resolutions, rules or ordinances require such a permit. All connections to District facilities shall be performed by individuals or firms holding a valid A or C-42 license issued by the California Contractors State License Board. The District shall have the discretion to specify the point of connection to the District's systems.

A permit to connect to the District's storm drainage system shall be valid for one (1) year from the date of issuance. The storm drainage permit shall become null and void if the permittee has not, before the end of the one (1) year period, (a) connected to the storm drainage system, (b) begun construction, or (c) obtained an extension of the period to connect. All extensions of permits shall be valid for a period of one (1) additional year. The permittee may request either an extension of time in which to comply or a partial refund of the connection fees paid, in accordance with Sections 12 and 13 of this Ordinance.

SECTION 4. REQUIREMENT TO MAINTAIN PERMIT REQUIREMENTS

All permittees shall comply with maintenance requirements, storm water BMPs, and any other conditions or requirements of the District unless specifically relieved of such conditions or requirements by a written notice by the District Manager. Failure to maintain the permit requirements may result in permit revocation.

SECTION 5. RIGHT OF ENTRY

All property owners, as a condition for the issuance of a storm drainage permit, shall grant to the District a Right of Entry for purposes of testing, inspecting, and repairing of drainage facilities and BMPs. The Right of Entry shall be binding on all heirs, successors, and assigns of the permittee.

SECTION 6. INSPECTION AND PROCESSING FEE

The permittee, in addition to paying the connection fee, shall pay a permit request processing fee and an inspection fee with respect to each permit applied for, for construction or installation of facilities exterior to a Structure and BMPs or measurement devices within a Structure. The permit request processing fee and the inspection fee shall be pursuant to the current Schedule. If the application is for determination of both a sanitary sewer connection fee and a storm drain connection fee, the applicant shall pay only one processing fee and only one inspection fee.

SECTION 7. STORM DRAINAGE CONNECTION FEES

In order to adequately provide for required up-sizing of existing facilities and installation of new storm drainage conveyance and pumping facilities required due to Improvements, the following fees are established and shall be paid to the District before the District approves a permit to drain Parcels improved in any manner to District facilities, directly or indirectly.

1. For Single-Family Dwelling Units and mobile homes and their associated Improvements, the fee shall be the Single-Family Dwelling fees pursuant to the current Schedule for each residence or mobile home.
2. For Accessory Dwelling Units, the District will not charge a storm drainage connection fee for Contained or Attached Accessory Dwelling Units. Detached Accessory Dwelling Units which add less than 2,000 square feet of impervious area to a Parcel will not be charged a storm drainage connection fee. For Detached Accessory Dwelling Units which add 2,000 square feet or more of impervious area to a Parcel the District shall

charge a storm drainage connection fee equal to the Multiple-Dwelling unit fee pursuant to the current Schedule.

3. For Multiple-Dwelling Units, including town houses, duplexes, triplexes, quadruplexes, apartment houses, condominiums, or multiple Single-Family Dwelling Units, including Detached Accessory Dwelling Units that add over 2,000 square feet of impervious area on a single Parcel, the fee shall be the Multiple-Dwelling fee pursuant to the current Schedule for the area being Developed or Redeveloped; provided, however, the total amount of such fee for the Multiple-Dwelling Unit area shall not be less than the Single-Family Dwelling fee pursuant to the current Schedule. When only a portion of a Parcel is developed, the District Manager may, by written agreement with the property owner, defer that portion of fees due on the undeveloped portion of the Parcel, until that portion of the Parcel is Developed.
4. For churches, commercial and industrial buildings, commercial or industrial subdivisions, and all other land uses not otherwise provided for in this Ordinance, or Improvements appurtenant thereto, the fee shall be the commercial fee pursuant to the current Schedule for the area being Developed or Redeveloped. When only a portion of a Parcel is being Improved, the District Manager may, by written agreement with the property owner, defer that portion of the fees due on the undeveloped portion of the Parcel, until that portion of the Parcel is Developed. When the area for which the fee was deferred is Developed, the fee shall be computed using the then-current fee per acre. When a Parcel undergoes phased Development, *i.e.*, filling, grading, and placing of a rock top surface with the possibility that paving or other Improvements will be accomplished at a later date, the District Manager may, by written agreement with the property owner, charge one-half (1/2) the commercial-industrial drainage fee for the area being Developed and defer the remaining one-half (1/2) of the fee until the Parcel is paved or otherwise Improved. The deferred portion of the fee shall be paid in the

amount of one-half (1/2) of the then-current fee for the entire area, when the Parcel is fully Developed.

SECTION 8. ADJUSTMENT

The rates, fees and charges for services described within this Ordinance shall be included in the District's Schedule adopted by resolution of the Board, and adjusted as needed. The adjustment shall, at a minimum, be made by multiplying each fee included in the Schedule by a fraction, the numerator of which is the ENR Construction Cost Index for San Francisco for the most recent October, and the denominator of which is the ENR Construction Cost Index for San Francisco for the next preceding October, as reported by Engineering News-Record, the McGraw-Hill Construction Weekly. The result of that multiplication shall be rounded to the nearest five dollar (\$5.00) increment to become the fee amount for the ensuing year, effective upon adoption of the revised Schedule. Additional increases in the connection fees necessary to recover costs of projected capital improvements shall be at the discretion of the Board.

Nothing in this Ordinance shall preclude the Board from adopting fees other than those as provided herein to be effective on any other date.

SECTION 9. DEFERMENT OR WAIVER OF FEES

- A. There shall be no waiver of storm drainage connection fees, in whole or in part. At the discretion of the District Manager or the Board, as provided in subsection B of this Section 9, connection fees may be deferred with regard to property owned by local governmental entities or by organizations that are qualified as exempt from income taxation under Section 501(c) of the Internal Revenue Code of 1986 as amended, or any successor statute, and which shall have been organized and operated exclusively for charitable or educational purposes; provided, however, that the property is used for such governmental, charitable or educational purposes. The amount of the deferred connection fees shall be evidenced by a promissory note that

provides for the accrual and collection of interest on the unpaid balance of the deferred connection fees, at a rate approximating the average interest rate earned by the District on its investment accounts at the time the promissory note is executed. The District may require such security for the payment of the deferred connection fees as the District deems necessary or prudent. Should the property cease to be owned by the local governmental entity or by the charitable or educational organization, or cease to be used for such governmental, charitable or educational purposes, the unpaid balance of the deferred connection fee, along with accrued interest, shall immediately become due and payable to the District, and the promissory note and any security instrument may so provide.

- B. Storm drainage connection fees may be deferred at the discretion of the District Manager for a period not to exceed three (3) years. If an applicant desires a deferment of more than three (3) years, the applicant must apply in writing to the Board, which shall consider the request at a regular meeting held within thirty (30) days after the District receives the application. The Board in its discretion may defer connection fees for a period not to exceed a total of five (5) years.
- C. Fees for any direct charges incurred by the District for inspection, connection, or other labor and materials shall not be deferred.

SECTION 10. REDEVELOPMENT

When a Commercial or Multiple Dwelling Parcel which has been Developed undergoes Redevelopment, and a connection permit is applied for, the following rules will apply:

- A. If the new impervious area is larger than the old impervious area, the fee will be the sum of (i) the difference between the fee paid for the old impervious area and the current fee for the equivalent old impervious area, and (ii) the current fee for the new or added impervious area.

- B. If the new impervious area is the same size as or smaller than the old impervious area, the fee will be equal to the difference between the fee paid for the old impervious area and the current fee for the new impervious area. The minimum fee credit for the old impervious area shall be the fee in effect five (5) years prior to the current fee, or the fee in effect when the monthly sewer service charge was last paid, whichever is greater. No refund of previously paid fees shall be due.
- C. If a connection fee had been previously paid to the District, and the new impervious area is smaller than the old impervious area, no refund shall be payable by the District.

SECTION 11. INTERPRETATION OF FEES

In case of disagreement as to the interpretation of the storm drainage connection fees, the decision of the District Manager shall be the final staff decision, subject to the right of the applicant to appeal the decision to the Board. All appeals to the Board shall be in writing and shall be served on the District within thirty (30) days after the District Manager has issued a written decision. Failure to submit a written appeal within this thirty (30) day period shall eliminate any future appeal rights of the applicant, and the District Manager's decision will stand as the final decision. Appeals received at least seven (7) days prior to a Board meeting shall be submitted to the Board at the next regular meeting. Appeals received less than seven (7) days prior to a Board meeting will be heard at the second regular meeting of the Board following submission.

SECTION 12. REFUND OF FEES

In the event the District revokes a permit for failure to abide by District conditions or requirements, the permittee shall not be entitled to a refund or reimbursement of fees paid. Partial refunds will be made where the permitted work is not commenced, in accordance with the following procedures:

- A. The District will maintain a chronological listing of storm drainage permits issued. The record will be maintained by the Engineering Department and will be reviewed once a month to determine which permits are within six (6) weeks of the one (1) year expiration deadline based on the requirements in Section 3 above.
- B. As a courtesy, The District will send a letter to all permit holders whose permits are identified in subsection A of this Section 12 as being subject to expiration, informing the permit holder of the expiration date and conditions for extension, and requesting the permit holder to inform the District of his or her intention on a form provided. Failure to receive a letter does not relieve the permit holder of his or her obligation to pay the current fees, or extend the date of expiration of the permit.
- C. If the permit holder returns the form indicating the permit is to be canceled, the District will process a refund equal to the permit fee, less a refund processing fee pursuant to the current Schedule, and inspection fees.
- D. If the District receives no information from the permit holder on or before thirty (30) days prior to the expiration date of the permit, the Engineering Department will initiate an inspection of the property to determine if construction has begun.
- E. If upon inspection, the District determines that construction has not begun, the District will send a "No Activity" letter to the permit holder, by certified mail, informing him or her of the pending expiration.
- F. Upon expiration of the permit, the District will process a refund check equal to the amount of the permit fee less the inspection fees and the administrative fee for refunds, and forward it to the person or party who paid for the permit, or that person's designee. The Engineering Department will close the permit file once the refund check is issued.

SECTION 13. EXTENSION OF PERMITS

If the permit holder returns the form described in subsection B of Section 12 requesting an extension of the permit, it must be received by the District prior to the expiration date of the permit. The following procedure will be followed:

- A. The District will review the information provided by the permit holder regarding the basis for an extension. The District Manager will consider without limitation, any District or governmental regulatory requirements that have been adopted or implemented since the most recent issuance or extension of the permit. If required, the developer shall revise the Improvement plans to incorporate the new regulatory requirements. The revised plans shall be submitted for the review, comment, and approval of the District prior to the extension of the permit.
- B. If the District grants an extension, the permit holder shall pay an additional connection fee equal to the difference between the amount of the connection fee in effect at the time the original permit was issued and the connection fee in effect at the time the permit extension is granted, plus the administrative fee established for processing extension requests pursuant to the current Schedule. The Engineering Department will calculate the new fees and maintain the permit file. Extensions shall be for a period of one (1) year.
- C. If the extension is not granted and the permit holder accepts the District's decision, a refund will be issued and the file closed in accordance with subsection F of Section 12 above, less the administrative fee for processing extension requests, and the inspection fee.
- D. If the permit holder disagrees with the District Manager's decision to deny the permit extension, the permit holder may appeal, in writing, to the Board within ten (10) days from receipt of written notice of the District Manager's decision. Appeals received at least seven (7) days prior to a Board meeting shall be submitted to the Board at its

next regular meeting. Appeals received less than seven (7) days prior to a Board meeting will be heard at the second regular meeting of the Board following submission.

- E. The Board's decision on the request for a permit extension is final. If the Board grants an extension, the permit holder shall pay the fees required in subsection B of this Section 13. If the Board denies the extension, a refund in accordance with subsection C of this Section 13 will be issued.

SECTION 14. ESTABLISHING ADMINISTRATIVE FEES

The Board shall, from time to time, establish by resolution the administrative fees for connection fee refund, connection fee extension, inspection fees, processing fees, annexation fees, etc.

SECTION 15. FUNDS COLLECTED

All fees collected from the issuance of storm drainage connection permits shall be deposited in the District's "Stormwater Connection Fees Fund" and such funds shall be expended from time to time upon authorization of the Board solely for the purpose of acquisition, construction, reconstruction, or extension of storm drains, storm drainage treatment facilities, storm water pump stations, and flood control facilities of the District. No part of the funds shall be used for payment of operation and maintenance costs of the District.

The District shall keep accurate records concerning the collection of the storm drainage connection fees under this Ordinance. Such records shall set forth the amount of fees paid as to each Parcel of land, Structure, or Improvement to which said fees apply.

SECTION 16. VIOLATIONS

Whenever the District Manager determines that any user has violated or is in violation of this Ordinance, the District Manager shall, by certified mail, notify the user to remedy the violation within thirty (30) days from receipt of the written notice, or such lesser period as may

be specified by the District. The user shall be responsible for all costs incurred by the District due to the violation. Violations of this Ordinance shall include, without limitation the following:

- A. Use of the District's storm drainage facilities without a valid connection permit.
- B. Use of the District's storm drainage facilities in a manner not permitted.
- C. Change in use category of a permitted facility without obtaining a permit for the new use.
- D. Modification (added Units, impervious area, etc.) of a permitted facility without obtaining a permit covering the change.
- E. Use of the District's storm drainage facilities by a facility which has been permitted by the District but not cleared for occupancy.

SECTION 17. SEVERABILITY

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

SECTION 18. REPEAL OF CONFLICTING AUTHORITY

Upon the effective date of this Ordinance, any and all ordinances, resolutions, or rules or regulations of this District in conflict with it, shall be repealed and shall have no further force or effect. This Ordinance supersedes all prior ordinances of the District to the extent that such ordinances established the amounts of storm drainage connection fees and related permit and inspection fees.

SECTION 19. 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 February 10, 2018. The passage of this Ordinance shall be entered in the minutes of the District. Each year the District will evaluate the financial need for any rate increase and will adopt a revised Schedule by resolution accordingly.

ADOPTED by the Board of Trustees of the Vallejo Sanitation and Flood Control District on the 12th day of December, 2017 by the following vote:

AYES: President Sampayan; Trustees Dew-Costa, Hannigan, McConnell, Miessner, Sunga and Verder-Aliga

NOES:

ABSENT: Trustee Malgapo

ABSTAIN:

WITNESS my hand and Seal of said District this 12th day of December, 2017.



HOLLY M. CHARLEY
District Clerk