

**VALLEJO SANITATION AND FLOOD CONTROL DISTRICT
SANITARY SEWER AND UPPER LATERAL FEE ORDINANCE
ORDINANCE NO. 2006-64A**

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**VALLEJO SANITATION AND FLOOD CONTROL DISTRICT
SANITARY SEWER AND UPPER LATERAL FEE
ORDINANCE NO. 2006-64A**

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF WASTEWATER/SEWER SERVICE CHARGES FOR SERVICES AND FACILITIES FURNISHED BY DISTRICT, THE UPPER LATERAL PROGRAM, AND COLLECTION PROCEDURES OF SUCH CHARGES, PENALTIES FOR DELINQUENCY IN PAYMENT OF SUCH CHARGES, RESTRICTION ON USE OF FUNDS DERIVED

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

SECTION 1. PURPOSE

The purpose of the wastewater/sewer service fee and upper lateral fee is to raise revenue for the cost of maintenance, operation and replacement, and capital requirement of the Vallejo Sanitation and Flood Control District Sewerage Facilities used for collection, treatment and disposal of all residential, commercial and industrial wastewater generated within the District boundaries. The funds derived from the wastewater/sewer service fee and upper lateral fees shall be used for only those purposes provided for in the District's Enabling Act (Stat 1st Ex Session 1952 ch 17 p 351, effective May 19, 1952, as amended; see Deering's Uncodified Water Acts, Sec 8934; West's Uncodified Water Acts, sec 67). The rates stated within this Ordinance shall adjust on July 1 of each calendar year through

the year 2006. The rates in this Ordinance shall remain in effect unless a new Ordinance, regarding rates, is approved by the District Board. The Board reserves the right by resolution to authorize lesser fixed rates than those shown. The maximum annual increase percentage between years shall not exceed those shown in this Ordinance.

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:

1. "Billing Agent" shall be the District or other billing service as shall be determined by the District.
2. "Billing Period" shall be a monthly, bimonthly, or yearly cycle as established by the District for the customer or user classification.
3. "Biochemical Oxygen Demand" (BOD) shall mean the results obtained by using an approved laboratory procedure to measure the quantity of oxygen utilized in the biochemical oxidation of organic matter or in satisfying the oxygen demand of other materials present.
4. "Ccf" means one hundred cubic feet of water which is taken to equal

748 gallons.

5. "Commercial/Industrial" shall mean any premises used for *commercial retail*, manufacturing, processing, or other commercial/industrial purposes that discharge waste, sanitary waste, and sewage by reason of the manufacturing, processing, or other commercial/industrial purpose involved, or discharged chemicals or putrescent materials allowable by law.
6. "Commercial" shall mean any premises used for commercial, civic, religious, business, or governmental purposes and that discharges a quality of sewage as defined in this Ordinance.
7. "County" shall mean County of Solano.
8. "Customer" shall mean the record owner of a parcel served by one or more sewer connections; the record owner is, and shall be, primarily liable for all charges for sewer service to the parcel.
9. "Customer Service Agreement" is an agreement between a Commercial Customer and the District in which the Customer designates a person(s) ("Customer-Designee") to be billed for sewer service in addition to the Customer; the Customer and the Customer-Designee shall remain jointly and severally liable for the service charges.
10. "Disconnected" shall mean the actual physical disconnection from

sewer service to a parcel of improved real property by plugging or capping off the sewer lines.

11. "District" shall mean Vallejo Sanitation and Flood Control District.
12. "Equivalent Dwelling Unit" shall mean each unit of sanitary sewer flow equivalent to that typically contributed by a Single-Family Dwelling.
13. "Minimum Rate" shall mean the wastewater fixed fee charged for a classification.
14. "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.
15. "Properly Metered" shall mean the use of a City of Vallejo or a District authorized water flow measuring device, properly installed and operating, so as to measure at least the flow of waters that could enter the sewer system, whether from wells, pumps, portable water sources, and/or municipal water systems, or devices that measure sanitary sewer flows directly.
16. "Residential" shall mean single -family and multi-family dwellings.
17. "Schools" - Any public, private, or commercial institution for teaching or education purposes.

18. "Single-Family Dwelling" shall mean premises designed, improved or used as a residence for one family.
19. "Suspended Solids" (S.S.) shall mean the total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtering.
20. "Sanitary Sewer Overflow Program" shall refer to that program and associated actions to comply with the Settlement Agreement between BayKeeper and the District dated May 18, 1999 (SSOEP).
21. "User Classification" shall be appropriate groups of customers as determined by District for the purpose of administering this Ordinance.
22. " Winter Time Usage" shall mean the average monthly, properly metered, water usage for the months of January, February, March, and April; or if properly metered information does not exist for all the named months, the monthly average meter reading for three of the named months shall be averaged if available; or if adequate metered information is not available, the discharge for non-metered users shown in Table "A" attached to this Ordinance may be used; or other flow as the District Manager shall determine, appropriately based upon a review of the estimated water and sewerage flows.

SECTION 3. BASIS OF CHARGES - SANITARY SEWER FEE

Each customer shall be charged a sewer service fee for the applicable

billing period. The fee shall be based on actual or estimated costs of District operation and maintenance, debt service, insurance, and replacement or improvements of capital facilities, related to sanitary sewer activities of the District. Unit costs of BOD, S.S., and flow shall be determined on an annual basis and these unit costs shall be applied to the actual or estimated sewage flow quantities and qualities associated with each User Classification to determine the sewer service fee per billing period for each customer classification.

The amount of sewer service fees shall be determined from time to time. The fees shall be analytically determined based upon unit costs of service applied to estimated or actual quantity and quality of discharge associated with each user classification. In addition to a fixed fee, all commercial and commercial/industrial customers shall be charged a dollar amount per hundred cubic feet of water consumption based on the winter time water usage determined for the user classification. The fee per increment of water consumption is discrete for each Commercial and Commercial/Industrial user classification.

Each commercial unit within a structure is considered as individual business operations whether or not each commercial unit has individual rest room facilities. Each individual business operation within a structure

will be charged a sewer service fee. No separate sewer service fee will be charged for a recreation, laundry or other common use building space provided for the exclusive use of the residents of an apartment complex, condominium development, mobile home park, or similar complex.

Within the fixed component of the fees in Exhibit "A" is an amount to pay for the SSOEP (Sanitary Sewer Overflow Elimination Program). The goal of the SSOEP is to reduce sanitary sewer overflows.

SECTION 4. SEWER SERVICE FEE - RESIDENTIAL CUSTOMERS

There shall be one residential classification. Each residential unit shall pay sewer service fee as contained in Table "A" of this Ordinance, Each unit providing separate kitchen facilities shall be considered a separate dwelling unit. A residence that is also utilized by the owner/occupant as a business or an office for his own business will be charged as a residential use only, providing there are no non resident employees working in the building or there is no use of the sewer in connection with the business.

SECTION 5. SEWER SERVICE FEE - COMMERCIAL AND INDUSTRIAL CUSTOMERS

The minimum fee for classes of commercial and commercial/industrial customers utilizing the sanitary sewer system shall be as shown in Table

"A" of this Ordinance and shall apply in accordance with Section 3. In addition to the minimum fee, a fee based upon wintertime water consumption shall be charged per hundred cubic feet of water consumption, or portion thereof. Based upon the determination of wintertime usage for the prior year in Section 2, each July 1, a wintertime water consumption amount shall become effective for one year and shall be the basis for fee calculation. The estimated water consumption unit fees are shown in Table "A" of this Ordinance and may be modified by resolution of the Board from year-to-year as necessary, to assure that the amount paid, based upon average wintertime water use for a user class, is as indicated in Table "A".

User Group Classifications I, II, III, and IV are based upon quality of wastewater discharge as indicated.

<u>USER CLASSIFICATION (WASTEWATER QUALITY)</u>	<u>TYPICAL BUSINESS TYPE</u>
<u>Group I Commercial</u> (BOD + S.S. ≤ 400mg/l)	Commercial/retail, offices, bars, take-out restaurants, hospitals, convalescent home, religious meeting places, and governmental agencies.
<u>Group II Commercial</u> (400mg/l < BOD + S.S. < 2000mg/l)	Auto repair shops, hotels and motels without dining, commercial laundries, bottling companies, and newspaper publishers.
<u>Group III Commercial</u> (2000mg/l < BOD + S.S. < 4000mg/l)	Auto steam cleaning, wholesale bakeries, markets with disposals, mortuaries, restaurants, hotels and motels with restaurants.
<u>Group IV Commercial/Industrial (Special)</u> (BOD + S.S. > 4000mg/l)	As assigned by the Engineer-Manager. As assigned by flows greater than 25 mgd and /or strength.

If, in the opinion of the District Manager, a customer discharges wastewater of a quality or quantity not indicated by User Classifications I, II, or III, the District Manager shall assign customer to the Commercial/Industrial (Special) Classification IV, and shall calculate the fee based on strength and quantity of wastewater discharge using the three factors shown below and the unit cost shown in Table "A":

1. Flow in terms of hundred cubic feet
2. BOD in terms of pounds
3. S.S. In terms of pounds

Customers assigned to Group IV shall be required to produce documentation of wastewater quality and comply with all requirements of the District's current Non-Domestic Sewer Use Ordinance.

SECTION 6. SEWER SERVICE FEE - SCHOOLS

Yearly a fee per annual average daily attendance, plus a fixed fee per school site, shall apply. Table "A" specifies these fees. The average daily attendance for fee purposes shall be the figure for the previous period July 1st through June 30th, and shall be reported to the District by July 20th of each year. In cases of multiple uses of a site as a school and another use, the site may be billed based on the classification which most completely encompasses all uses of the site.

SECTION 7. SEWER SERVICE FEE - USERS OUTSIDE DISTRICT

Service shall be extended to users outside the District by special contract only. The contract shall specify the maximum sewer fees allowed at the time of the execution of the contract. The minimum service charge to outside users shall be that charged to users within the District, plus any costs associated with providing said service to users outside the District.

SECTION 8. SEWER SERVICE FEE - LOW INCOME

Low income users shall receive a ten percent (10%) reduction in the Sewer Service Fee for Residential Customers. To be considered a low-income user, a user must be the party to whom the sanitary sewer bill is addressed, and a participant in the Pacific Gas and Electric Company California Alternate Rates for Energy (CARE) program. A user shall demonstrate that he or she is a participant in the CARE program by completing a Low Income Fee request form and attaching to the form a current Pacific Gas and Electric Bill showing participation in the CARE program. The form shall be delivered to the District at its offices at 450 Ryder Street. Upon approval by the District Manager, or his designee, the Low Income User Fee shall be charged for a period of one year, or until the applicant is no longer the billed party, whichever is sooner. In order to remain eligible to be charged only the Low Income User Fee, a Low Income Fee request form, with a current Pacific Gas and Electric bill showing participation in the CARE program attached, must be completed each twelve (12) months. The entitlement for the Low Income User Service Fee shall not be transferable between addresses or persons.

SECTION 9. SEWER SERVICE FEE - SEPTAGE HAULERS

- A. Trucks utilized for septage hauling will be registered annually with, and meet requirements of, the County Health Department. Additionally, all trucks shall be registered with the District and will pay an annual registration fee of \$525.00. Registration fees shall be due January 1 of each year and must be paid before the truck will be permitted to dump septage at District facilities. Each registered truck shall be issued a permit sticker that must be clearly displayed as required by the District. The annual registration fee will be prorated by one quarter of the annual registration fee on the first day of April, July, and October of each year. Registration fees shall automatically be adjusted each July 1 to be effective January 1 based upon the Engineering News Record (ENR) published rate of change in construction costs as of the previous March. The base index shall be the March 2000 index of 7,154.14.
- B. In addition to the registration fee stipulated above, a per load fee of \$100.00 per truck for the first of 1000 gallons or less will be charged. For trucks with capacities greater than 1000 gallons, a surcharge of \$.10 per each additional gallon, or portion thereof, above 1000 gallons of capacity will be charged. Per load fees

shall automatically be adjusted each January 1 based upon the ENR published rate of change in construction costs as of the previous March.

- C. Gate key cards shall be issued with the registration of each truck. Gate key cards are considered a part of the registration sticker. Gate key cards remain the property of the District and must be returned when the registration of the assigned truck lapses or upon the demand of the District. If a gate key card is lost, or if the key is deactivated for any reason, a fee of \$15.00 will be assessed for replacement or reactivation.
- D. If a truck enters District facilities by using the key of another, the company owning the truck will be subject to a \$250.00 fine and the loss of dumping privileges for the violating truck for a period of six months. For a second offense, by any truck owned by the company, the company will be subject to a \$500.00 fine and the loss of dumping privileges for the violating truck for a period of one year. Under both situations, the registration of the offending truck will be revoked, without a return of any fees paid, and would have to be re-registered prior to again entering the District's facilities. Continued violation of this Ordinance may subject the violating company to a permanent loss of dumping

privileges for all company trucks.

- E. If more than one truck enters District facilities when another truck opens the gate the company(s) owning the truck(s) will be subject to a \$250.00 fine and the loss of dumping privileges, for the violating truck(s), for a period of six months. For a second offense, by any truck(s) owned by the company(s), the company(s) will be subject to a \$500.00 fine and the loss of dumping privileges for the violating truck(s) for a period of one year. Under both situations, the registration of the offending truck(s) will be revoked, without a return of any fees paid, and would have to be re-registered prior to again entering the District's facilities. Continued violation of this Ordinance may subject the violating company(s) to a permanent loss of dumping privileges for all company trucks.

SECTION 10. BASIS FOR UPPER LATERAL FEE

The upper lateral fee of \$1.38 per month for each upper lateral connection to the District's collection system shall continue in effect.

The upper lateral fee is determined by dividing the total cost of the program by the total number of physical connections of upper laterals to the District's collection system. The charge for a common use area, such as condominium areas, mobile home parks, commercial parks, or

development shall be one charge for the single upper lateral connection regardless of the number of actual buildings, residences, or commercial establishments served and sanitary sewer fees paid.

SECTION 11. METHOD OF BILLING AND COLLECTION

The District shall determine method of billing and collection for each user classification for the sanitary sewer fee and upper lateral fees.

SECTION 12. 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 District's Enabling Act, the District Manager, or his authorized representative(s) is hereby given the power and authority to enter upon private property for the purpose of inspection and maintenance of storm, sanitary and waste facilities, including but not limited to, ascertaining the nature of such premises, reading water meters, the type of activities carried on therein, the number of plumbing fixtures situate therein, the number of units, and any other facts or information reasonably necessary to ascertain the applicability of any sewer service fees or upper lateral fees or to such premises, or the amount of such fees.

SECTION 13. VACANCY

No credit, adjustment, or refund of the sewer service fee will be made to any customer because the premises or any part thereof are vacant unless said premises are disconnected from the sewer system or are prevented from occupancy by State, County, or Municipal Code Violation of Health Department Enforcement for one month or more. Facilities under construction and connected to the water system, but not wishing to pay fees stated in this Ordinance, shall allow a District plug to be placed in the sewer lateral to prevent drainage of the sewer lateral. The District shall decide the location of the plug within the upper or lower lateral. A fee specified by District Resolution shall apply to installation and removal of the plug. Application for a sewer service fee adjustment or refund shall be on a form provided by District and filed with District. The application must be filed within one year from the date the premises were so disconnected or prevented from occupancy. The District shall have the right to inspect the premises to verify the circumstances of the application. There will not be any adjustment or refund of any portion of the upper lateral fee.

SECTION 14. REFUNDS

When any sewer service fee or upper lateral fee refund becomes due and owing by virtue of action of the District Board or by virtue of any

error made in ascertaining the fee applicable to any customer, the District Manager or his designee is authorized to make payable such monies from the specific fund established for the deposit of sewer service fees, 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 15. ADJUSTMENTS

It is the intent of the provisions of this Article, in establishing different sewer service fees for different categories of customers, to reflect the benefit from such service to each customer so that those who impose heavier burden upon the system because of higher flow or quality of the discharge of sewer flows pay a higher charge. If, in respect to any customer, the District Board should find that the sewer service fee, or portion thereof, is inequitable or unfair because of unusual circumstances, it may establish a special sewer fee for each Customer, differing from those otherwise established which will bear a closer relationship to the benefit received from use of the District facilities. The special sewer service fee may be revoked at any time by the Board whenever it finds that continuation thereof would be inequitable or unfair under the circumstances then prevailing.

The Owner and/or Customer-Designee (if any), of any premises, who by

reason of special circumstances, finds that the applicable fee is unjust or inequitable as applied to the premises may make written application to the VSFCB Board, stating the circumstances and requesting a different basis of charges for such premises. If such application be approved, the VSFCB Board, may by resolution, fix and establish fair and equitable fees for such premises to be effective as of the date of such application and continuing during the period of such special circumstances.

SECTION 16. WHERE PAYABLE

All service fees shall be payable at the office of the District, or as noted on the billing.

SECTION 17. 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 terms "governmental or public premises" means and includes premises which are owned, controlled or used by (1) the United States Government or any department or agency thereof, (2) the State of California or any department thereof, (3) any City, County, town or any of their departments or agencies, (4) any school District, (5) and other governmental or public entities.

This section is merely explanatory and declaratory of the existing provisions of

this Ordinance.

SECTION 18. SEWER FEE AND UPPER LATERAL FEE BILLING

All sewer fees and upper lateral fees may be billed in advance, monthly, bi-monthly, or quarterly as determined by the District Manager. The billing statement may be combined with statements for other services, and may be combined with billing for other utilities. All billings for sewer fees and upper lateral fees for a property shall be in the name(s) of the Owner and/or Customer-Designee (if any), for the property as shown on the District's billing records.

The record owner of the property is the party ultimately responsible for the payment of such sewer fees and upper lateral fees. The record owner and/or the Customer-Designee (if any) shall be notified at the time of delinquency of any bill. The owner of the property shall be as reflected on the last equalized assessment roll for the County or as reflected in any deed or other satisfactory evidence of change of ownership recorded with the County Recorder since the date of the last equalize assessment roll.

SECTION 19. 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 ten percent (10%) of the charge or fee that became delinquent and shall bear interest at 1-1/2% per month on the basic charge and the penalty. Any non-sufficient fund (NSF) checks received shall have a penalty charge of \$25.00 added to the account. Any payment made toward an outstanding delinquency shall be applied against the oldest portion of the total amount delinquent.

SECTION 20. DELINQUENT CHARGES AS DEBT TO AGENCY: COURT ACTION

Any charges or fees established or set by this Ordinance or any subsequent Ordinances enacted by this District, and all amendments thereto, which become delinquent pursuant to the terms of the Ordinance establishing 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 competent civil court for collection of same. If the District prevails in such civil action, it shall be awarded reasonable fees for attorney to be fixed by the court, in addition to any other relief granted or other costs awarded.

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

SECTION 21. DELINQUENT CHARGES TO CONSTITUTE LIEN

Any charges or fees established or set by this Ordinance or any subsequent Ordinances enacted by the District, and all amendments thereto, which become delinquent pursuant to the terms of the Ordinance establishing them, and all penalties or delinquent charges accrued thereon, shall constitute a lien upon the real property served (except publicly owned property), and such lien shall continue until the charge or fee and all penalties thereon are fully paid or until the property is sold therefor.

SECTION 22. COLLECTION OF DELINQUENT CHARGES ON TAX ROLL

Pursuant to the provisions of Sections 5470 through 5474.10 of the California Health and Safety Code, this 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 for each fiscal year from and after July 1, 1989, 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 and Safety Code.

SECTION 23. COURT ACTION TO ENFORCE LIEN

As a separate, distinct and cumulative remedy for collection of said delinquent charges or fees, and any 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 21 herein above.

If the District prevails in any such civil action, it shall be awarded a reasonable attorney's fees, to be fixed by the court, in addition to any other relief granted or other costs awarded.

SECTION 24. DISCONNECTION OF SEWER LINE

Any person, firm or corporation who is the Owner and/or Customer-Designee (if any), of property receiving sewer services from the District, who fails or refuses to pay any charge or fee as provided by District Ordinance within the time limit prescribed for the payment thereof shall, upon prior notice and opportunity for appeal, be subject to having the sewer line disconnected, and thereafter no such sewer service which has been disconnected for the nonpayment of such charge or fee shall be reconnected until the owner, and Customer-

Designee (if any), of such property shall have paid all delinquent charges or fees owed the District and all actual expenses incurred by the Agency in causing such disconnection and reconnection.

The District Manager shall notify the owner and/or Customer--Designee (if any); of the property by certified mail of the delinquency and the need to bring the account current within forty-five (45) days of the date of the notice or the property will be subject to disconnection. The Owner and/or Customer- Designee (if any) shall have twenty (20) calendar days from the date of the notice to file a written appeal stating why the property should not be subject to disconnection. The District shall respond to the appeal in writing within fourteen (14) days and prior to sending a second notice. A second notice shall be forwarded to the owner and/or Customer-Designee (if any), of the property on the 31st day informing them of the disconnection in Fifteen (15) days or anytime there after, if the outstanding fees owed are not brought current. No other notice shall be given.

SECTION 25. 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 of Trustees of the VSFCDD 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 be declared invalid, unconstitutional or unenforceable.

SECTION 26. 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 July 1, 2006.

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 28th day of February the following vote:

AYES: President Intintoli Jr., Trustees Pearsall, Cloutier, Davis, Bartee, Sunga, Gomes, and Silva

NOES: None

ABSENT: None

WITNESS my hand and Seal of said District this 20th day of December 2005.

BETTE S. SAFREED
District Clerk