

ORDINANCE NO. 176

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
MODIFYING WASTEWATER CAPITAL FACILITY FEES
FOR FISCAL YEAR 2012-2013

BE IT ORDAINED by the Board of Directors of the Vallecitos Water District ("District") as follows:

Section 1. Declaration of Policy and Background. On August 3, 2011, the District's Board of Directors adopted the 2008 Water, Wastewater, and Water Reclamation Master Plan ("2008 Master Plan"). Concurrent with the adoption and in compliance with the California Environmental Quality Act ("CEQA"), the Board of Directors also certified the Final Program Environmental Impact Report for the 2008 Master Plan ("2008 Master Plan PEIR"). The District used information and data from the 2008 Master Plan and PEIR to prepare the Water, Wastewater Capital Facility Fees and Wastewater Density Impact Fee Study ("Study") and calculate a reasonable Wastewater Capital Facility Fees structure and methodology that reflects the costs of financing and construction of the proposed facilities in the 2008 Master Plan. The Study analyzes the capital facilities needed by the District to serve the growing demands of new development, and the proposed fees do not exceed the reasonable costs of financing and constructing the needed improvements

The Study was approved by the Board of Directors a public meeting on March 21, 2012 and an Updated Study is approved as part of this ordinance. The Updated Study substantiating the proposed fees in accordance with this ordinance were made available for public inspection and review ten (10) days prior to a public meeting, and notice was given in compliance with Government Code section 66016.

During the period from January 2010 through February 2012, the District held over 20 workshops and meetings with interested parties including representatives from the development community, the Building Industry Association of San Diego, and consulting engineers to review, discuss, and receive input on the 2008 Master Plan, the Master Plan PEIR, a draft of the Study, and the District's basis and methodology in substantiating the proposed Wastewater Capital Facility Fees.

The District, by this ordinance, desires to adopt the Wastewater Capital Facility Fee Schedule which is attached hereto as Exhibit "A" and incorporated herein by reference for fiscal year 2012-2013 and reflects the information and data taken from the 2008 Master Plan and Study.

The Board of Directors of the District considered modifying its Wastewater Capital Facility Fee Schedule after conducting a public hearing at a public meeting on April 18, 2012, in accordance with Government Code section 66018.

Section 2. Findings. The Board of Directors of the District finds and determines as follows:

(a) Purpose of the Fee. The purpose of the Wastewater Capital Facility Fee is to provide adequate wastewater conveyance and treatment to serve new development within the District's service area and to provide adequate funding for future financing and construction of facilities described in the 2008 Master Plan.

(b) Use of Fees. All Wastewater Capital Facility Fees as listed on the Wastewater Capital Facility Fee Schedule, shall be used to finance and construct the applicable wastewater facilities described in the 2008 Master Plan including debt service. Wastewater Capital Facility Fees shall not be used for repair, maintenance or operational expenses.

(c) Relationship Between Use of Fee and Type of Development. Wastewater Capital Facility Fees will be charged to new development and existing users with increased demands as measured by Equivalent Dwelling Units (“EDU’s), which takes into consideration land use designations, type of use, and amount of flows as identified in the 2008 Master Plan and Updated Study.

(d) Relationship Between Need for Capital Facilities and Type of Project. In order to provide adequate wastewater service, all new development within the District's service area will require the capital facilities specified in the 2008 Master Plan and Study.

(e) Relationship Between Amount of Fee and Cost to Particular Projects. The Wastewater Capital Facility Fees for each new development shall be based upon the demand of a particular project on the District's wastewater system through the analysis of type of use and flows. The District finds and determines that the Wastewater Capital Facility Fee Schedule insures that each user will pay a fair share of new facility construction based upon actual demand upon the wastewater system.

(f) Reasonable Relationship. Wastewater Capital Facility Fees do not exceed the estimated reasonable costs of providing the service for which the charge is imposed and the Wastewater Capital Facility Fee Schedule insures that each user will pay a fair share of new facility construction based upon actual demands.

(g) Environmental Review. In accordance with the California Environmental Quality Act Guidelines Section 15061, the Board of Directors ordains that the Wastewater Capital Facility Fees established by this ordinance are exempt from CEQA for the following reasons:

1. The Wastewater Capital Facility Fees are not a "project" as defined by Guidelines Section 15378;
2. The project is exempt in accordance with Guidelines Sections 15273(1), 15273(3), and 15274(4); and
3. The activity will not have any significant impact upon the environment pursuant to Guidelines Section 15061(b)(3).

The Board of Directors of the District orders and directs that the foregoing exemptions and reasons be made a part of the Notice of Exemption and that the Notice of Exemption be filed with the County Clerk of the County of San Diego.

(h) Cost Estimates. The cost estimates set forth in the 2008 Master Plan and Study are reasonable estimates for the financing and construction of capital facilities shown and the development fees expected to be generated by new demand will not exceed a total of these estimated costs.

Section 3. Segregated Accounts and Their Accounting. The District has established separate accounts in its accounting records segregating wastewater capital facility fee revenue and related interest accrued thereon from other revenue and funds of the District. For each separate account, the District's finance officer shall, within one hundred eighty (180) days after the last day of each fiscal year, make available to the public and present to the District's Board of Directors a written report containing all of the information required by Government Code section 66013(d).

Section 4. Water and Wastewater Study. All development projects at the sole expense of the developer shall be required to complete a Water and Wastewater Study which analyzes and calculates the impacts of the development project on the wastewater conveyance and treatment. The Water and Wastewater Study shall also provide the basis for local impacts and improvements.

Section 5. Commitment of Wastewater Capital Facility Fees. All Wastewater Capital Facility Fees collected and remaining unexpended on the effective date of this ordinance and all future development fees collected pursuant to this ordinance and related interest thereon are committed by appropriation to the District's capital improvement program and the facilities described in the 2008 Master Plan and Study.

Section 6. Wastewater Capital Facility Fee Schedule and Inflationary Increases. On January 1 of each calendar year, the District will adjust the Wastewater Capital Facility Fee Schedule based on the annual percentage change in the Engineering News Record Construction Cost Index.

Section 7. Effective Date. This ordinance shall be effective immediately upon passage by the Board of Directors. The secretary of the District shall publish this ordinance two (2) times on successive weeks in an adjudicated newspaper of general circulation within the District. The new District wastewater capital facility fees established by this ordinance shall be effective at 12:00 a.m. on July 1, 2012, more than sixty (60) days after adoption of this ordinance in accordance with Government Code section 66017.

Section 8. Time of Payment of Wastewater Capital Facility Fees. Wastewater Capital Facility Fees shall become due, and payable pursuant to Resolution No. 1343 o and prior to commitment by the District for service.

Section 9. Non-Refundable. To assure availability for proper planning and to meet obligations incurred by the District to develop capacity in the District's wastewater system in a timely manner, all wastewater capital facility fees collected shall be non-refundable and non-transferable.

Section 10. Interpretation and Severability. Each and every section, subsection, sentence, clause, phrase, part, or portion of this ordinance shall be construed at all times so as to be in compliance with all federal, state, and local laws, rules, and regulations governing development fees. If any section, subsection, sentence, clause, phrase, part, or portion of this ordinance as so interpreted

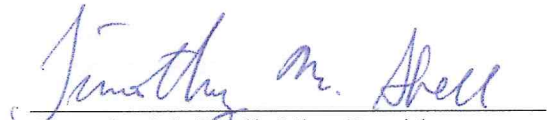
is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors of the District hereby declares that this measure, and each section, subsection, sentence, clause, phrase, part, or portion of this ordinance would have been adopted or passed irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts, or portions of this ordinance are declared invalid or unconstitutional. In the event a court of competent jurisdiction determines that any sentence, clause, subsection, section, phrase, or any part or portion of this ordinance is invalid or unconstitutional, the Board of Directors of the District hereby expressly requests that the court sever the invalid portion of this ordinance and declare the balance of the ordinance to be valid.

Section 11. Limitation on Judicial Review. Any judicial action or proceeding to attack, review, set aside, void, or annul this ordinance or any wastewater capital facility fee increase adopted as a result of this ordinance shall be brought no later than one hundred twenty (120) days following the date this ordinance has been adopted by the Board of Directors of the Vallecitos Water District. Any action not filed within the 120-day period shall be forever barred.

ALL OTHER ORDINANCES, ARTICLES, OR SECTIONS OF ORDINANCES, OR AMENDMENTS IN CONFLICT HEREWITH ARE HEREBY REPEALED.


PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District at a regular meeting this 18th day of April, 2012, by the following roll call vote:

AYES: FERGUSON, POLTL, SHELL
NOES:
ABSENT: GENTRY, HERNANDEZ
ABSTAIN:



Timothy M. Shell, Vice President
Board of Directors
Vallecitos Water District

ATTEST:



Dennis O. Lamb, Secretary
Board of Directors
Vallecitos Water District

EXHIBIT A

Vallecitos Water District
Wastewater Capital Facility Fee Schedule
Adopted: April 18, 2012
Effective: January 1, 2024

1. Wastewater Capital Facility Fees are based upon the amount of the demand or increased demand as measured by Equivalent Dwelling Units (EDUs) of 250 gallons per day (GPD) of wastewater.
2. The amount of capacity to be purchased is determined by the District using 2018 Master Plan criteria, land use, information submitted by the applicant, and the project's Water and Wastewater Study, if applicable. The minimum capacity shall be based on the Master Plan land use, with minimum capacity of one EDU. Purchase of additional capacity may be required. The fee for residential use is determined using the schedule below. The fee calculation for non-residential use may be based on the project specific study or analysis using 2018 Master Plan criteria. The applicant may submit information to be considered in the capacity determination.
3. Following commencement of service, other than service for residential use, the account will be monitored for flow volume. If the flow exceeds the purchased capacity based on the most recent twelve-month average, the payment or lease^a (if qualified) of additional capital facility fees may be required. Unless determined otherwise, all water entering the property through the water meter or from an on-site water source is assumed to reach the wastewater system.
4. The Residential Wastewater Capital Facility Fee Schedule is as follows:

2024 Capital Facility Fee

Residential Category	GPD	EDU	Sewer Fee
Single Family Residence **	250	1.00	\$ 16,506
Mobile Home (each unit in park)	200	0.80	13,205
Mixed Use - Residential (per unit)	180	0.72	11,885

**Multi-Family residential fees are calculated using the Water and Wastewater Study and land use categories in the 2018 Master Plan

(Nonresidential fees are based on land use and/or actual flow capacity as determined by District review.)

^a Lease of capacity is subject to terms and conditions of Ordinance No. 110.

-Capital Facility Fees are increased based on the December to December Los Angeles ENR Construction Cost Index.