

**ROSS VALLEY SANITARY DISTRICT  
ORDINANCE NO. 93**

An Ordinance Repealing Ordinance No. 92  
adopted March 18, 2020 and Enacting this Ordinance  
Relating to Sewer Capacity Charges and Sewer Permit Fees

**WHEREAS**, Ross Valley Sanitary District ("District") is authorized by the Sanitary District Act of 1923 (Health & Safety Code §6400 et seq.) to provide public services and facilities related to the acquisition, construction, replacement, improvement, maintenance and operation of wastewater collection facilities within the District's service area; and

**WHEREAS**, the District is empowered to prescribe, revise and collect fees, rates and charges related to said wastewater collection facilities pursuant to Health and Safety Code §6520.5, including Sewer Capacity Charges; and

**WHEREAS**, the District imposes Sewer Capacity Charges in accordance with Government Code §66013; and

**WHEREAS**, the owners or occupants of the properties upon which all Sewer Capacity Charges established by this Ordinance desire to discharge wastewater to the District's wastewater collection facilities; and

**WHEREAS**, the District incurs costs to improve, upgrade, and expand the District's wastewater collection facilities in order to protect public health and safety, preserve the environment without damage, and conform to regulatory requirements; and

**WHEREAS**, the District's upgrades and improvements of existing wastewater collection facilities effectively increases the District's capacity to serve more customers; and

**WHEREAS**, the District periodically undertakes evaluation and study of fair and equitable charges to connect to and use the wastewater collection system; and

**WHEREAS**, the District maintains an asset register, fee studies, and financial and engineering reports (collectively referred to as the "Administrative Record") which are made available to the public, both prior to and after their public review at noticed public meetings; and

**WHEREAS**, the reasonable value of the District's facilities, as shown in the Administrative Record, are based on best available information and data relating to population projections, wastewater flow rates, current asset values; and

**WHEREAS**, the District has previously, by duly adopted ordinances, established Sewer Capacity Charges (previously referred to as "Connection Fees") to be paid by all persons obtaining a permit to connect to and utilize the District's wastewater collection facilities; and

**WHEREAS**, the District finds that the Sewer Capacity Charges imposed for a new connection pursuant to this Ordinance will not exceed the estimated reasonable cost for the District's existing and future facilities; and

**WHEREAS**, the District finds that the Sewer Capacity Charges established by this Ordinance are neither an incident of property ownership nor a property-related service having a direct relationship to property ownership and, therefore, are not subject to the requirements of California Constitution Article XIII D (also known as Proposition 218); and

**WHEREAS**, the District finds that the Sewer Capacity Charges established by this Ordinance are not imposed as a condition of approval of a proposed development project as defined in Government Code §66001 and, therefore, are not subject to the requirements for imposing development charges set forth in Government Code §66000 et seq.; and

**WHEREAS**, the District finds that the Sewer Capacity Charges established by this Ordinance do not exceed the estimated reasonable cost of providing the service for which the charges are imposed, pursuant to Government Code §66013 and §66016; and

**WHEREAS**, the District finds that the Sewer Capacity Charges established by this Ordinance are non-discriminatory as applied to all users of the District's wastewater collection facilities and are established upon a rational basis; and

**WHEREAS**, the District finds that the purpose of the Sewer Capacity Charges established in this Ordinance is to reimburse the District for costs which have been paid for existing wastewater collection facilities and will be paid for a reasonable share of the cost of future facilities and provide funds for capital projects necessary to maintain service, including service to new connections, within the existing District service area, and so the adoption of this Ordinance is Statutorily Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15273( a ); and

**WHEREAS**, the District finds that all Sewer Capacity Charges and Permit Fees established by this Ordinance have been approved by the District's Board of Directors at a duly noticed public meeting and in accordance with applicable provisions of law.

**NOW, THEREFORE**, the Board of Directors of the Ross Valley Sanitary District does ordain as follows:

**SECTION 1. Recitals.** The above Recitals are true and incorporated by reference herein.

**SECTION 2.** Ordinance No. 92 is hereby repealed in its entirety and is replaced by this Ordinance.

### **SECTION 3. Definitions**

"**Accessory Dwelling Unit**" ("**ADU**") is defined in California state law and means a separate attached or detached residential dwelling unit, not exceeding 1,200 square feet, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following: an efficiency

unit, as defined in the Health and Safety Code §17958.1; or a manufactured home, as defined in the Health and Safety Code §18007.

For the purpose of this Ordinance, the District defines four distinct types of ADUs:

**"Type 1"** means an ADU constructed within the existing interior space and exterior wall footprint of an existing single-family residence. Type 1 ADUs include "Junior ADUs" as defined by local municipal ordinances. No new sewer lateral connection to the public main shall be required for Type 1 ADUs. No additional Sewer Capacity Charge shall be required for Type 1 ADUs. Permit fees shall be required as listed in "Exhibit A".

**"Type 2"** means an ADU constructed by expansion or addition to an existing single-family residential structure or accessory structure. No new separate sewer lateral connection to the public main shall be required. Sewer Capacity Charges and permit fees shall be required as listed in "Exhibit A".

**"Type 3"** means an ADU constructed by conversion of an existing, detached accessory structure. No additional Sewer Capacity Charge shall be required for Type 3 ADUs, provided there is no expansion of the existing accessory structure area square footage. No new separate sewer lateral connection to the public main shall be required. Any new private lateral needed to connect the new ADU to the existing residential structure or the existing private lateral shall be constructed to then-current District standards and subject to District inspection and approval.

**"Type 4"** means an ADU newly constructed on the same residential parcel and detached from the existing residence or accessory structure. A Type 4 ADU shall be served with a new private lateral connecting to the existing private lateral and shall be constructed to then-current District lateral standards and subject to District inspection and approval. At the Owner's discretion, a new separate private lateral may be constructed directly from the new Type 4 ADU to the public main in accordance with then current District construction standards. The owner shall be responsible for all applicable encroachment and other agency permitting requirements for construction in the public right-of-way. Sewer Capacity Charges and Permit fees shall be required as listed in "Exhibit A".

**"Board of Directors"** or **"Board"** means the governing board of Ross Valley Sanitary District.

**"Drainage Fixture Units"**, or **"DFUs"**, mean the units of measure of wastewater generation from plumbing fixtures defined in the then-current California Plumbing Code.

**"Equivalent Dwelling Unit"** means a residential Single-Family Dwelling Unit that includes up to twenty-three (23) DFUs. For non-residential connections, this District-specific ratio of twenty-three (23) DFUs per EDU shall be used in conjunction with the actual DFU for the proposed connection, to establish the total EDUs including any fraction thereof. For purposes of this Ordinance, "Equivalent Dwelling Unit" and "Single Family Dwelling Unit" are used synonymously. As addressed in Section 22 of this Ordinance, the Central Marin Sanitation Agency ("CMSA") charges a separate capacity charge which may include a different definition of Equivalent Dwelling Unit.

**"Existing Sewer Connection"** means any lateral connection to the public wastewater collection facilities authorized pursuant to a valid permit.

**"Expanded Use"** means expanding the use of an Existing Sewer Connection to increase the Drainage Fixture Units associated with that connection in excess of twenty-three (23) DFUs.

**"General Manager"** means the person appointed by the Board of Directors, or their designee, authorized to administer and enforce the rules and regulations of the District.

**"New Sewer Connection"** means any lateral connection to the District's wastewater collection facilities for which a permit has not previously been issued.

**"Non-Discriminatory"** means that the Sewer Capacity Charge does not exceed the reasonable share of the costs of the District's wastewater collection facilities of benefit to the person or property being charged, based upon the proportionate share of use of those facilities.

**"Owner"** means the recorded owner as shown by the official records of the County Recorder of Marin County.

**"Parcel"** means a single parcel of land for which a legal description has been filed on record, or the boundaries of which are shown on a subdivision map or a record of survey map, filed in the office of the County Recorder.

**"Permit Applicant"** means the Parcel Owner or their authorized agent for purposes of permit processing. The terms "Permit Applicant" and "Owner" may be used synonymously in this Ordinance.

**"Permit Fee"** means any sewer permit fee required by this Ordinance, other than a Sewer Capacity Charge, intended to cover the direct District staff and administrative costs for inspections, plan reviews, and processing permit applications.

**"Private Sewer Lateral Permits"** mean the various private sewer lateral permits issued by the District. The permit types, requirements, and fees are shown in "Exhibit A".

**"Public Sewer Extension Permit"**, or PSX Permit, means the discretionary permit to remove, replace, relocate, rehabilitate, or otherwise install public sanitary sewer infrastructure (sewer mainline pipelines, manholes, etc.) to be built by the private party applicant, and dedicated back to the District for public ownership and maintenance. The related permit fees are shown in 'Exhibit A'.

**"Sewer Capacity Charge"** means a charge for wastewater collection facilities in existence at the time a charge is imposed and/or a charge for new sewer facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged.

**SECTION 4. Application.** This Ordinance imposes a one-time, Non-Discriminatory Sewer Capacity Charge on Parcel Owners as a condition of the District permitting those Parcel Owners to establish a New Sewer Connection or to expand the use of an Existing Sewer Connection. No Sewer Capacity Charge shall be imposed for temporary structures, as determined by the General

Manager. The District shall refund any Sewer Capacity Charge paid for which no New Sewer Connection is made.

**SECTION 5. Permit Required.** A permit is required to perform work on public sewer infrastructure or for private sewer laterals. The type of permit is defined in this Ordinance and the associated Permit Fees are set forth in "Exhibit A". No Parcel Owner or unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance, or perform any work on a private sewer lateral, without first obtaining a permit from the District.

**SECTION 6. Application for Permit.** The Permit Applicant shall make an application on forms provided by the District for that purpose. The Permit Applicant shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith as well as any other information required by District policy. The District Engineer may require plans, specifications or drawings and such other information as he or she may deem necessary. Except in those instances when approval from the Board is required, if the District Engineer determines that the plans, specifications, drawings, descriptions or information furnished by the applicant are in compliance with the ordinances, rules and regulations of the District, the permit shall be issued upon payment of the required fees in "Exhibit A".

**SECTION 7. Compliance with Permit.** After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the sewer, the grade, materials or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued except with written permission from the District Engineer.

**SECTION 8. Time Limit on Permits.** If work under a permit is not complete within one year from the date of issuance, the permit shall become void and no further work shall be done until a new permit has been issued. Prior to expiration of the permit, the applicant may request in writing and the General Manager (or other duly authorized District representative) may authorize up to a one year, one-time extension of the permit from the date of the written request.

**SECTION 9. Agreement.** The Permit application for any permit as set forth in this Ordinance shall constitute an agreement to comply with the provisions, terms and requirements of this and other ordinances, rules and regulations of the District, and with the approved plans and specifications filed with the application. Requests for changes to the agreement shall be made in writing and are subject to the discretionary approval of the District Engineer.

**SECTION 10. Use of Revenues.** The District may impose Sewer Capacity Charges to pay for wastewater collection facilities in existence at the time the charge is imposed or to pay for new or improved facilities to be constructed in the future, provided those facilities are of benefit to the property being charged and the charges do not exceed the reasonable cost of the service provided. The District may use revenues derived from Sewer Capacity Charges for the acquisition, construction and reconstruction of the District's wastewater collection facilities; to repay principal and interest on debt instruments; or to repay federal or state loans for the construction and reconstruction of said sewer facilities, together with costs of administration and provisions for necessary reserves.

**SECTION 11. Payment Required.** Payment in full of Capacity Charges and Permit Fees is required prior to the District approving and issuing the permit, and prior to the performance of any work covered by the permit.

**SECTION 12. Time of Payment.** Sewer Capacity Charges and Permit Fees shall be paid in full prior to the District approving or issuing a permit.

**SECTION 13. Amount of Payment.** Sewer Capacity Charges and Permit Fees shall be paid in accordance with the charges effective on the date that a permit is issued.

**SECTION 14. Person Responsible.** The Owner of the parcel requesting a New Sewer Connection or Expanded Use of an Existing Sewer Connection shall be solely responsible for payment of applicable Permit and Capacity Charges.

**SECTION 15. No Credit.** No credit shall be taken against a Sewer Capacity Charge or Permit Fee for any amount paid or to be paid for any other fee or charge imposed pursuant to other District ordinances.

**SECTION 16. Runs with the Parcel.** A Sewer Capacity Charge paid for by a Parcel Owner related to a New Sewer Connection or Expanded Use of an Existing Connection, is a one-time charge upon a Parcel which, upon payment, runs with the Parcel.

**SECTION 17. All Work to be Inspected.** All sewer construction work, both public sewer and private sewer laterals, shall be inspected by the District to ensure compliance with all requirements of the District. No sewer work shall be backfilled or covered at any point until it has been inspected by the District and passed for acceptance. No New Sewer Connection or Expanded Use of an Existing Connection work shall be connected to the District's public sewer until the work covered by the permit has been completed, inspected and approved by the District Inspector. All work covered prior to inspection shall be uncovered and is subject to additional inspection fees.

**SECTION 18. Notification for Inspection.** It shall be the responsibility of the Permit Applicant to notify the District in writing that said work is ready for inspection. Notification shall be given not less than twenty-four (24) hours before the work is to be inspected.

**SECTION 19. Condemned Work.** When any New Sewer Connection or Expanded Use of an Existing Connection work has been inspected and the work condemned and no certification of satisfactory completion given, a written notice to that effect will be given instructing the Parcel Owner, or the agent of such Owner, to repair the sewer or other work authorized by the permit in accordance with the ordinances, rules and regulations of the District.

**SECTION 20. Encroachment Permit.** A separate permit must be secured from the county, city, or other person or entity having jurisdiction, by the Permit Applicant to excavate in a public street for the purpose of installing sewers (public or private), making sewer connections, or otherwise conducting sewer work under the applicable District permit. The Permit Applicant shall be solely responsible for compliance with all other agencies permit conditions.

**SECTION 21. Liability.** The Permit Applicant shall indemnify, defend, protect, and hold harmless the District and its officers, agents and employees from any and against any, all and

every demand, claim, damage, judgment, liability, obligation, penalty, fine, action, loss, cost and expense (including without limitation reasonable attorneys' fees) associated with District's imposition of charges pursuant to this Ordinance, including all costs, expenses, fees and interest incurred in defending same or in seeking to enforce this provision. In no event shall District's approval of any plans, specifications and drawings for any alterations constitute a representation or warranty by District of the accuracy or completeness of the plans, specifications, drawings and alterations or the absence of design defects or construction flaws therein, or the qualification of any person or entity, or compliance with applicable laws, and District shall incur no liability by reason of such approval. Permit Applicant waives any right of action against the District. The District and its officers, agents and employees shall have no liability for injury or death to any person or damage to any property arising during or relating directly or indirectly to the performance of any work by the Permit Applicant.

**SECTION 22. CMSA Treatment Plant Capacity Charge.** The Central Marin Sanitation Agency ("CMSA") treatment plant capacity charge is established and set by CMSA and is in addition to the Sewer Capacity Charges and/or Permit Fees imposed by this Ordinance. The District collects the CMSA capacity charge from the Permit Applicant, under conditions set forth in the CMSA Joint Powers Authority Agreement.

**SECTION 23. Establishment of Sewer Capacity Charge and Permit Fees.** Effective upon approval of this Ordinance, the Sewer Capacity Charge and Permit Fees shall be in the amount set forth in Exhibit "A".

**SECTION 24. Adjustment of Capacity Charge and Permit Fees.** Each year on July 1 the Sewer Capacity Charge and Permit Fees shall be adjusted by an increment based on the most recent annual change (April to April) in the Engineering News-Record Construction Cost Index (ENR CCI) for San Francisco. However, the District Board may at its option determine, by resolution adopted prior thereto, that such adjustment shall not be effective for the next succeeding year or may determine other amounts as appropriate. The base index in this Ordinance is based on the ENR CCI of 12014.72 (June 2018).

**SECTION 25. Right to Review, Hearing, and Appeal.** A Permit Applicant subject to Sewer Capacity Charges and Permit Fees may request review of any decision by District staff related to imposition of those charges by filing with the District a written request for an informal hearing before the District's General Manager. Said request must be made prior to payment of any Sewer Capacity Charges and Permit Fees. Failure by a Parcel Owner to timely file said written request shall result in a waiver of the right to said hearing.

Within thirty (30) days of a Parcel Owner's filing of a written request, and on at least ten (10) days written notice of the informal hearing to the Permit Applicant, the General Manager shall meet with the Permit Applicant to hear the Permit Applicant's objections. Within five (5) days of said informal hearing, the General Manager shall issue a written response to the Applicant.

In ruling on a request, the General Manager may, in their sole discretion, affirm, reverse or modify the District staff's decision and make any adjustments and impose any conditions deemed just and proper, if they find and determine that the provisions of this Ordinance are not being equitably applied to the matter under consideration.

If a ruling by the General Manager is unsatisfactory to the Permit Applicant, the Permit Applicant may, within fifteen (15) days after notification of that ruling, file a written request for an appeal of the General Manager's ruling with the District Board. The request for an appeal shall be considered by the District's Board of Directors at a regular scheduled meeting within sixty (60) days after filing, and on at least ten (10) days written notice of the meeting to the Permit Applicant. The Board shall make a final ruling on the matter within fifteen (15) days of the close of the meeting at which the appeal is considered, and the District shall thereafter timely notify the Permit Applicant of the Board's ruling by first-class mail. The Board's determination on the matter shall be final.

In ruling on a request for an appeal, the Board may, in its sole discretion, affirm, reverse or modify the General Manager's ruling and make any adjustments and impose any conditions it deems just and proper, if it finds and determines that the provisions of this Ordinance are not being equitably applied to the matter under consideration.

**SECTION 26. Capacity Charge Waiver for Below-Market Rate Housing.** On adoption of a resolution by the Board, the District may approve a reduction of up to 50% of Capacity Charges for legally restricted affordable, low income, disabled, senior citizen and similar below-market rate housing units approved by the appropriate land use and zoning jurisdiction.

**SECTION 27. Affordable Housing Priority.** In accordance with Section 65589.7 of the California Government Code ("Section 65589.7") or any successor statute, the Ross Valley Sanitary District. ("District") shall grant priority to proposed developments with housing units affordable to lower income households for sewer connection. The District shall not deny or condition the approval of an application for connection to, or reduce the amount of District's services applied for by a proposed development that includes housing units affordable to lower income households unless it makes specific written findings that the denial, condition, or reduction of service is necessary due to the existence of one or more of the following:

1. The District does not have a sufficient water supply, is operating under a water shortage emergency, or does not have sufficient distribution capacity for the proposed development as demonstrated by a written engineering analysis.
2. The District is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections.
3. The District does not have sufficient collection capacity, as demonstrated by a written engineering analysis and report on the collection of works, to serve the needs of the proposed development.
4. The San Francisco Bay Area Regional Water Quality Control Board issues an order to the District prohibiting new wastewater connections.
5. The applicant failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking the District's services, including requirements of local, state or federal laws and regulations, or payment of a charge or fee.

The District shall review and adopt these policies with objective standards conforming with Section 65589.7 at least once every five years. The definitions and provisions under Section 65589.7 or any successor statute apply to this District Policy. This District Policy serves as the District's compliance with Section 65589.7 subsection (b).

**SECTION 28. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid, unconstitutional or unenforceable, such holding shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases is for any reason held invalid, unconstitutional or unenforceable.

**SECTION 29. Repeals and Inconsistent Ordinances.** As of the effective date of this Ordinance, the following ordinances of this District are hereby repealed: Ordinance 92 adopted March 18, 2020; Ordinance 91 adopted October 16, 2019; Ordinance 90 adopted February 21, 2018 and updated March 2018; Ordinance 64 adopted August 21, 2013; Ordinance 60 adopted August 25, 2009; Ordinance No. 37 adopted November 5, 1991; Ordinance No. 35 adopted November 5, 1985; Ordinance No. 33 adopted May 21, 1985; Ordinance 32 adopted February 1, 1982. All other District ordinances and resolutions and parts of District ordinances and resolutions inconsistent herewith are hereby repealed.

**SECTION 30. Effective Date of this Ordinance.** A summary of this Ordinance shall be published once in the Marin Independent Journal, a newspaper of general circulation published in the District. The effective date of this Ordinance shall be July 1, 2024.

PASSED AND ADOPTED this 22<sup>nd</sup> day of May 2024 by the following vote:

AYES:

NOES:

ABSTAIN:



THOMAS GAFFNEY

SECRETARY OF THE BOARD



MICHAEL BOORSTEIN

PRESIDENT OF THE BOARD