

RIVERSIDE COUNTY

RULES AND REGULATIONS
FOR
ADMINISTRATION OF
AREA DRAINAGE PLANS

ADOPTED JUNE 10, 1980
BY RESOLUTION NO. 80-244

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GENERAL

These Rules and Regulations are adopted by the Board of Supervisors for the purpose of providing policy guidelines to be used in the administration of adopted area drainage plans, and to define the design and construction responsibilities of drainage facilities to be financed or constructed by developers pursuant to Section 10.25 of Riverside County Ordinance No. 460.

Variations in the application of these guidelines may occur as the result of specific language used in the Board Resolution adopting the individual Area Drainage Plans or by the specific condition of development adopted by the County in approving tentative maps within the Drainage Plans. As area drainage plans are adopted or amended the Resolution of Adoption will be incorporated as part of this policy statement.

If advance construction of Area Drainage Plan facilities is proposed by a developer within an approved Specific Plan, the Specific Plan shall be treated, in the context of these Rules and Regulations as if it were a "Tract" and all other rules set forth herein shall be applied accordingly except as otherwise provided in this document.

Drainage fees collected by the County, within County areas, shall not be used by the District to construct any portion of required facilities within City areas unless the City affected has by ordinance established a comparable fee schedule that is simultaneously adjusted whenever the Board determines, after appropriate public hearings to which the City has been notified and invited to comment, that the fee is to be adjusted.

Situations not covered by these guidelines will be handled by further directives from the Board when required.

GUIDELINES

I. MAINTENANCE

All Area Drainage Plan facilities (except inlets within public maintained roads) will be permanently maintained by the Riverside County Flood Control and Water Conservation District (District) upon satisfactory completion of the project and acceptance by the District unless alternative maintenance agreements are provided. Inlets to Area Drainage Plan facilities within public maintained roads will be maintained by the Riverside County Road Department or the City within which they are located.

II. MINOR PLAN REVISIONS

The alignment, type of construction, design discharge, or design standard may be altered by the Chief Engineer of the District from that shown in the published Area Drainage Plan provided the original purpose is achieved with the altered design.

III. DESIGN AND CONTRACT ADMINISTRATION

The primary responsibility for design and construction of all Area Drainage Plan facilities lies with the District so the maximum control and accountability for costs accruing to the Area Drainage Plan funds can be maintained. The following criteria will be applied by the Chief Engineer to assist in his evaluation of engineering and administration responsibility for construction contracts:

a. Design Responsibility

- (1) Major Facilities - All channels, retention basins and storm drains with diameters of more than 60 inches will be designed by the District (or through private engineering contracts administered by the District), unless otherwise authorized in writing by the Chief Engineer.
- (2) Local Facilities - Local facilities and lateral storm drains with diameters of 60 inches or less will normally be designed by the developer's engineer using District standards providing the Chief Engineer has authorized the developer (in writing) to proceed in this manner. Final plans must be presented on 22" x 36" cronaflex sheets and be approved by the Chief Engineer.

b. Construction Responsibility

- (1) Public Works Project if Reimbursement or Tract to Tract Transfer of Excess Earned Credit Anticipated - The District will cause all facilities to be constructed through contracts administered by the District whenever reimbursement for facility costs beyond the developer's total acreage fees is anticipated, or whenever tract to tract transfer of excess earned credit is anticipated.

A project agreement shall be executed between the developer and the District setting forth all terms and conditions of the project, including contract timing, project credit, amount of construction deposit, right of way transfers, reimbursement, and other provisions. An agreement will be initiated by the District upon receiving a written request from the developer setting forth a realistic construction schedule (recordation, tract grading, home construction, utility installation and street improvements) after construction drawings are sufficiently completed.

- (2) Developer Project if Reimbursement Not Anticipated - A developer may construct or cause to be constructed the required Area Drainage Plan facilities in partial or full satisfaction of his drainage fees, provided, however, no reimbursement shall be made to the developer even if the facility cost exceeds the amount of developer's total drainage fee. Developer constructed facilities can be used as a credit against drainage fees for future units recorded on the same property as provided in subsections b, c, and i of Section IV.

c. Construction Staking Responsibility

- (1) District Administered Contracts - All contracts administered by the District shall have basic construction staking surveys provided by the District.
- (2) Developer Administered Contracts - All contracts administered by the developer shall have basic construction staking surveys provided by the developer.

d. Construction Inspection Responsibility

- (1) District Administered Contracts – Construction inspection for all Area Drainage Plan facilities to be constructed under District administered contracts shall be done by the District at cost, out of construction funds deposited by the developer as provided in the project agreement. A duplicate inspection fee shall not be required by the County.
- (2) Developer Administered Contracts – Construction inspection for Area Drainage Plan facilities to be constructed under developer administered contracts shall be done by the County using inspection fees collected under provisions of County Ordinance No. 460. The Road Commissioner will notify the District in writing before the project is accepted; the bonds held by the County for these facilities shall not be released until the Chief Engineer has approved the release in writing.

When it is mutually advantageous to the County and the District, the District may provide the construction inspection. Inspection fees collected by the Road Commissioner for this purpose will then be transferred to the appropriate Area Drainage Plan fund and District inspection costs will be charged to that fund.

e. Conveyance of Rights of Way

- (1) District Administered Contracts - Conditions for transfer of rights of way for all facilities constructed by the District will be established in the project agreement between the developer and the District. Rights of way for facilities within the boundaries of the tract will be offered for dedication to the County at the time of recordation of the final map and thereafter be conveyed by the County to the District. Credit for said rights of way shall be established as defined in Section IV. Rights of way for facilities outside the boundaries of the tract will be conveyed directly to the District free and clear of conflicting encumbrances and encroachments and be guaranteed by a policy of title insurance. The boundary will be monumented by the developer's engineer to the satisfaction of the District.

- (2) Developer Administered Contracts - Rights of way for developer constructed facilities shall be offered for dedication to the County at the time of recordation of the final map requiring these facilities; upon completion of the facilities the County shall accept the offer of dedication and convey the rights of way to the District.
- (3) When No Construction Required - When no facilities are required to be constructed but dedication of rights of way is nonetheless required, the offer of dedication shall be made to the County at time of recordation of the final map; upon request of the District the County shall accept the offer and convey the rights of way to the District.

IV. PROJECT CREDIT

a. Construction Cost Credit, District Administered Contracts

- (1) Credit Equals Actual Cost - The construction cost credit given to a developer for construction of Area Drainage Plan facilities, constructed under contracts administered by the District, shall be the actual cost of the facilities including those allowable design costs, construction surveys, contract administration and inspection costs accrued for that segment of the project.
- (2) No Credit for Developer Convenience Appurtenances - The cost of appurtenant facilities included in the contract for localized drainage, or developer's convenience will not be included in the construction cost credit.
- (3) No Credit for Interim Inlets or Unplanned Facilities - The cost of special requirements including, but not limited to, interim collection dikes, interim outlet structures, bridges not shown in the published plan or facilities which are not considered integral to the ultimate area plan project but are included only to fit the specific type or time of development, will not be included in the construction cost credit.

b. Construction Cost Credit, Developer Administered Contracts

(1) Credit Equals Estimated Cost in the Published Area Drainage Plan - The construction cost credit, given to a developer for construction of Area Drainage Plan facilities constructed under contracts administered by the developer, shall be determined by the Chief Engineer using the estimated construction costs (including contingencies and engineering) published in the Area Drainage Plan for the segment of the project being constructed.

c. Rights of Way Credit for Required Facilities Constructed Substantially Within a Stream, Watercourse or Flood Plain; or Constructed to Salvage Developer's Flood Prone Property

(1) District Appraisal - Rights of way credit will be determined by the District. A property valuation will be made using the assessed value of the property as shown on the last equalized assessment roll. A distinction will be made in this appraisal between bench lands not subject to flooding and lands in the flood plain. Lands within the flood plain will be assigned 1/4 the unit values of the bench lands.

The area within the flood plain shall be determined by the Chief Engineer using such maps, photographs, calculations, field observations or other means as may be readily available to him.

The resulting calculation formula to determine indicated fee value is:

$$(1/4 P \times A1) + (P \times A2) = \text{Assessed Value}$$

Areas A1 and A2 are the acreage of the flood plain and bench lands, respectively; and P, the indicated unit value for fee title on bench lands not subject to flooding.

Flowage easements, or flooding easements will be valued at 50% of the indicated values computed above. Severance damages and special benefits will not be considered in the evaluation.

The resulting rights of way credit is not intended to reflect precisely the highest and best use or current market value, but is intended to bring order and equity to the right of way crediting process, which can be readily determined and administered without undue delays to the developer. Valuation appeals will not be considered.

- (2) Valuation Date - The appraisal valuation date will be established as the date of recordation of the final map that requires the dedication with the condition of property being defined as the raw land condition without consideration of the intended recordation of the subject tract.
- (3) Underground Easements - No value will be placed upon underground storm drain easements.
- (4) Time of Establishing Right of Way Credit - Credit for rights of way conveyed for area plan facilities will be established by the District upon written request of the developer prior to tract recordation.
- d. Rights of Way Valuation for Offstream Facilities - Rights of way for retention basins, diversion channels or other facilities located offstream, i.e., properties not subject to flood hazard, but required primarily to achieve system economics in the Area Drainage Plan, will be valued by the District in a formal appraisal of highest and best use.

Recordation of the final map shall be deferred until the appraisal is complete. Upon completion of the appraisal, the Chief Engineer shall recommend and the Board shall determine a final valuation of the rights of way granted for the project based upon the District's appraisal and any other relevant information presented by the Chief Engineer or the developer.

- e. Developer Responsibility for Offsite Rights of Way - When the conditions of approval of a tentative map require offsite improvements, the developer shall acquire offsite rights of way by negotiation with the affected property owners. The rights of way credit allowed developer will be established as provided in subsection c or d of Section IV above, and will not be based upon actual payment by the developer for the land.
- f. District Condemnation of Offsite Rights of Way – Use of the District's powers of condemnation will be considered only on public projects where clear public need and necessity can be established. When condemnation proceedings are required, such proceedings will be initiated only after the appropriate public hearings and approval by the Board.

Property owners of lands within the Area Drainage Plan which must be acquired by the District for the construction of required facilities, may elect, at the sole discretion of the landowner, to be compensated in cash or with an equivalent drainage fee credit statement prepared by the District which waives future Area Drainage Plan fees in the amount equal to the right of way offer, on the parcels of lands designated by the landowner which lie within the Area Drainage Plan. The letter(s) of drainage fee credit shall be signed by both the Chief Engineer and the affected landowner, and be duly recorded by the District in the Office of the County Recorder at the time of issuance.

- g. Total Project Credit; District Administered Contracts - The total project credit shall be the sum of construction cost credit and rights of way credit.
- h. Total Project Credit; Developer Administered Contracts - The total project credit shall be the sum of construction cost credit and rights of way credit; however, the total project credit shall not exceed the drainage fees on the tract for which the facilities are being constructed or the amount of the estimated construction cost of the required facility as determined by the published Area Drainage Plan.
- i. Expiration of Project Credits - The right to a credit, used to pay or reduce fees for units of a tract or Specific Plan, expires 15 years after the date the credit was earned.

In order to use earned credits, the developer shall file, upon the form supplied by the District, a verified request that the unused credit be applied to the new development, which request shall include the consent of the owners of the original earned credit.

- j. Transfer Excess Earned Credit - Tract to Tract Within Area Drainage Plan - In order to transfer excess earned credit from tract to tract within a specific Area Drainage Plan, a public works contract administered by the District (i.e., developer administered contracts will not qualify) must first be completed to establish the amount of the excess earned credit. When excess earned credit is to be transferred from tract to tract, evidence indicating that an agreement has been reached between developers shall be submitted to the District and shall include tract number transferring excess earned credit, tract number receiving excess earned credit, amount of excess earned credit being transferred, certification that contents of agreement is Correct and notarized signatures of both developers. No successive transfer of excess earned credit will be allowed. No transfer of excess earned credit from a tract in one Area Drainage Plan to a tract in another Area Drainage Plan will be allowed.

V. MEANS OF PAYING DRAINAGE FEES

- a. Standard Acreage Fees when no Construction Required - Owners of developments which do not require the construction of Area Drainage Plan facilities pay the applicable drainage fees to the Road Commissioner at time of recording the final map except as provided in Section IX herein.

- b. District Administered Contracts - Tracts and Specific Plans - Credit may be granted for the actual cost of Area Drainage Plan facilities funded by developers using a District administered contract, provided however that:
 - (1) A construction agreement must be executed with the District prior to beginning of construction.

 - (2) The construction agreement will require an advance deposit of cash or an approved letter of credit from an acceptable financial institution in the amount of 110% of the District's estimated cost of construction including the estimated costs of survey staking, inspection and contract administration. The agreement would also establish provisions to return any excess deposit (or the release of the financial responsibility established in the letter of credit) for any funds remaining within 90 days of completion of the project.

 - (3) Credit for the cost of constructed Area Drainage Plan facilities may be transferred or used to offset Area Drainage Plan fees required to be paid on any other development in the Area Drainage Plan.

- c. Developer Administered Contracts - Tracts and Specific Plans - Credit may be granted for Area Drainage Plan facilities constructed by developers using a developer administered contract, provided however that:
 - (1) Credit is limited to the Area Drainage Plan cost estimate for the facilities being constructed as determined by the Chief Engineer.

 - (2) Credit for the cost of facilities may be used only to offset developer's fees required at time of recordation for other development units of respective tract or specific plan.

- (3) Faithful performance, and materials and labor bonds must be posted in the amount and type required for all other tract improvements prior to recording a final tract map. If the construction is being done as part of a specific plan, an agreement may be required with the District prior to proceeding with construction, setting forth the terms and conditions of inspection, maintenance, right of way transfer, posting and release of bonds and all other related matters.
- d. Assessment District Obligation - Property included in an Assessment District which has been obligated to pay off bonded indebtedness to finance the construction of Area Drainage Plan facilities shall be relieved from paying Area Drainage Plan fees at time of development up to an amount equal to the pro rata amount of the original assessment assigned to that property, providing however if the fee in effect when the assessment was applied was more than the assessment, then the incremental balance due (inflated at rates similar to the change which has occurred to the whole fee) shall be required to be paid as a condition of the development.

Excess credit may not be earned by obligations incurred on a parcel of land within the Assessment District, unless that assessment is paid in full prior to the sale of bonds.

VI. CREDIT STATEMENT

The District will prepare a statement authorizing the County to credit drainage fees for the published Area Drainage Plan value of facilities constructed, or bonded for construction, prior to recording the final map. Said statement will be prepared for tracts where construction of any segment of Area Drainage Plan facilities or dedication of rights of way is required or transfer of excess earned credit has been proposed and approved.

A similar statement will be provided by the District to both the developer and County for the status of excess credit earned by advance construction of Area Drainage Plan facilities within approved Specific Plans. This statement will be prepared after the project is completed and accepted by the District, or at such time as a contractual commitment (with acceptable provisions for bonding, construction deposit, or letter of credit) has been made between the developer and the District.

VII. DEVELOPER'S CREDIT BALANCE

- a. Definition - A developer's credit balance in the Area Drainage Plan fund is equal to the amount his total project credits exceed his drainage fees.

- b. Transfers, Tract to Tract - A credit balance obtained on one tract, through construction of Area Drainage Plan facilities, may not be used to waive drainage fees required for another tract except as provided in Sections IV, i and j herein.
- c. Transfers, Unit to Unit - Credit balances obtained on one unit of a tract may be used by the developer in payment of drainage fees required to record subsequent units of the same tract.
- d. Fees Paid on Early Units will not be Reserved for Required Facilities on a Later Unit - Fees collected from a developer on an early unit of a tract will not be held in an Area Drainage Plan fund for specific construction of area plan facilities required in a subsequent unit of the developer's tract.
- e. Interest Income Accrues to the Fund - Monies in an Area Drainage Plan fund may be invested by the District in approved interest drawing accounts. The revenue from such investments shall accrue to the Area Drainage Plan fund and does not accrue to any developer's account.
- f. Accounting by District - The District will keep, and make available, an accurate accounting of all developer credit balances in Area Drainage Plan funds.
- g. Reimbursement of Credit Balances - Uncommitted monies in an Area Drainage Plan fund may be disbursed by the Auditor upon recommendation of the Chief Engineer and approval by the County Board of Supervisors, to developers holding a construction credit balance subject to rules defined herein, and on a first established, first returned basis.

In order to provide continuity in completing Area Drainage Plan facilities the County Board of Supervisors may define CRITICAL SEGMENTS of an Area Drainage Plan required to be funded out of existing or future uncommitted revenues prior to the authorization for reimbursement of any developer's credit balance. Any such disbursement of uncommitted monies shall be made only after the construction of CRITICAL SEGMENTS of a plan, as defined by the Board, has been funded and committed. Such disbursements are also subject to the following reimbursement guidelines:

- (1) Date of Establishing a Credit Balance - The date of establishing a credit balance shall be the date of the NOTICE OF COMPLETION of the project for facilities constructed by the District.

- (2) Earliest Reimbursement Date, Tracts - Reimbursement of a credit balance shall not be considered by the Board until all units of the tentative tract have been recorded, or the time for recordation of all units of the tentative tract has expired.
- (3) Specific Plan Restrictions - Reimbursement of a credit balance earned by construction of facilities within a specific plan of development shall be considered by the Board only on a case by case basis, using the reimbursement rules for tracts as a general guide, and making its decision after receiving input at a public hearing scheduled for this matter.
- (4) Other Reimbursement Restrictions – Additional reimbursement restrictions may be established in a project agreement.

VIII. APPLICATION OF DRAINAGE FEES

- a. Tracts Overlapping a Drainage Boundary - If a tract is partially within and partially outside of an Area Drainage Plan, drainage fees shall be applied only to that portion of the tract within the drainage boundary of the adopted Area Drainage Plan.
- b. Disputes Over Location of Drainage Boundary – The Chief Engineer shall determine the location of the published Area Drainage Plan boundary if the location of the boundary is in dispute. In determining the location of the boundary, the Chief Engineer shall fix the location of the natural drainage boundary that existed on the date of adoption of the Area Drainage Plan, or the location of such other boundary as may have been intended by the Board when adopting the Area Drainage Plan.

IX. DRAINAGE FEE DETERMINATIONS

- a. Adopted Drainage Fees

Each Area Drainage Plan adopted by the Board establishes the drainage fee per acre currently in effect for all new land divisions within that plan.

- b. Time of Payment

Drainage fees shall be paid as follows:

- (1) Drainage fees shall be paid to the Road Commissioner as a part of the filing for record of the subdivision final map or parcel map, or if the recording of a final parcel map is waived, drainage fees shall be paid as a condition of the waiver prior to recording a certificate of compliance evidencing the waiver of the parcel map; or

- (2) At the option of the land divider, upon filing a required affidavit requesting deferment of the payment of fees, the drainage fees may be paid to the Building Director at the time of issuance of a grading permit or building permit for each approved parcel, whichever may be first obtained after the recording of the subdivision final map or parcel map; provided however, this option to defer the fees may not be exercised for any parcel where grading or structures have been initiated on the parcel within the prior 3 year period, or permits for either activity have been issued on that parcel which remain active.

c. Notice to Owners

When the land divider elects at time of recordation to have payment of the drainage fees made at the time of issuance of grading or building permits on individual lots, the following notifications shall be made:

- (1) The recorded final map or parcel map or certificate of compliance evidencing the waiver of the filing of a parcel map shall specifically state that a drainage fee is required to be paid by the owner of parcels created by the land division prior to issuance of the first grading permit or building permit for each created parcel; and
- (2) A separate instrument shall be recorded by the land divider in the Office of the County Recorder of Riverside County which gives notice that the drainage fees have been deferred to the grading or building permit stage. The instrument shall be recorded at the time of filing for record of the final map or parcel map, or the certificate of compliance evidencing the waiver of the parcel map. The instrument shall give notice that a substantial drainage fee is required to be paid to the Riverside County Building Director by the owners of the created parcels prior to issuance of the first grading or building permit for each parcel for which a drainage fee is required; and
- (3) Upon payment of any deferred land division drainage fee, the Building Director shall record a Notice in the Office of the County Recorder of Riverside County that the land division drainage fees have been paid, stating the amount and date of payment.

d. Computation of Lot Drainage Fees

A lot drainage fee shall be established for each lot at time of approval for recordation or waiver of recordation of the subdivision final map or parcel map. The fee shall be computed as follows:

(1) For subdivisions into small lots (1 acre net or less), the lot drainage fee will be determined by multiplying the gross acreage being divided into small lots, times the drainage fee per acre in effect at time of recordation, divided by the total number of small lots.

(2) For subdivisions into large lots (lots greater than 1 acre net), the drainage fee for each lot will be the fee established for one acre regardless of the lot size, except that:

On land zoned for commercial, industrial, or manufacturing use as defined by Riverside County Zoning Ordinance No. 348, the lot drainage fee shall always be computed as if it were a small lot land division; the amount due for each lot shall be established by multiplying the gross lot area times the drainage fee per acre in effect at time of recordation.

(3) Drainage fees for lots within a nonstatutory condominium subdivision shall be calculated as if the development were a small lot subdivision, multiplying the gross acreage being developed times the drainage fee per acre at time of recordation, divided by the number of individual lots (not counting the common areas as a lot); the drainage fee for common use areas shall be allocated proportionately to the individual lots and no fee shall be separately collected for the lots designated for common use.

(4) Drainage fees for units of a statutory condominium shall be calculated as provided herein for nonstatutory condominiums, treating units of the development as if they were lots, and allocating drainage fees for the lot of common area proportionately to the units; no fee shall be separately collected for the common area lot.

(5) Credits granted to a developer for construction of Area Drainage Plan facilities required in order to record a land division shall be used to reduce the lot drainage fees established herein for subsequent units of the development as assigned by the developer who established the credit. No allowance for inflation or depreciation of the value of the constructed facility shall be made. Written verification of the assignment from the original developer to the owner requesting the credit will be required prior to the use of this credit to waive the subsequent fee.

- (6) Payment of drainage fees on a large lot which is subsequently divided into smaller lots shall be treated as a credit against the new drainage fees. No allowance for interest earned will be granted. The credit shall be used to reduce the lot drainage fee on all lots within the new land division, as assigned by the developer who established the credit, upon presentation of a written verification of the assignment from the original developer. On lots created prior to February 16, 1988, for which the fee was also paid prior to that date, the current owner shall be given the option to elect to receive a proportional credit of the prior Area Drainage Plan fee paid by the parent lot owner.
- (7) Drainage fees shall not be required to be paid as a condition to the division of any parcel of land for which a drainage fee has previously been paid as a small lot (1 acre net or less) land division.
- (8) Public agency owners shall be exempt from the payment of deferred lot drainage fees established herein.
- (9) Deferred lot drainage fees shall not be required to be collected at time of issuance of a subsequent building permit for a lot, when the building permit requested does not create additional impervious surface area. If the permit to be granted is for any grading, or if it is for a building permit which creates any additional impervious surface area, the drainage fee shall be required to be paid in full before the permit is issued.

e. Adjustments to Deferred Lot Drainage Fees

The amount of the drainage fee within an adopted Area Drainage Plan may be amended at any time by the Board of Supervisors upon a determination that it is necessary to do so in order to correctly reflect the estimated cost of facilities required in the plan.

When a developer elects to defer the payment of the lot drainage fees to the grading or building permit stage, the fee to be paid for each lot shall be the amount established at time of recordation as set forth herein, increased or decreased proportionately to reflect adopted changes in the drainage fee since the date of recordation of the subdivision final map or parcel map which created the parcel.

- f. Mitigation Fees on Other Discretionary Land Uses - Whenever a discretionary land use permit is issued within an Area Drainage Plan, and a determination has been made that the approved land use will increase runoff which may require earlier construction of downstream Area Drainage Plan facilities, a mitigation fee may be required to be paid for deposit into the Area Drainage Plan fund, or facilities may be required to help mitigate the impacts. When a mitigation is required, and a fee is considered to be an appropriate means to provide the mitigation, the amount of the fee and time of its collection shall be recommended by the Chief Engineer in his report to the permitting agency, using as his guide, the fee structures set forth herein for land divisions having comparable anticipated impervious surface areas. Upon its collection, the fee shall be placed in the Area Drainage Plan fund for use in the construction of future Area Drainage Plan Facilities.

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