

Resolution No. 9636  
Resolution of the Council of the City of Palo Alto Amending Rule and  
Regulation 25 (Special Storm and Surface Water Drainage Utility  
Regulations)

R E C I T A L S

- A. Rule and Regulation 25 (Special Storm and Surface Water Drainage Utility Regulations) sets forth the manner in which the City’s Storm Drainage Fee is charged.
- B. On August 29, by its adoption of Resolution 9624, the City Council proposed a new Storm Water Management Fee (the “Proposed Fee”) to replace the City’s existing Storm Drainage Fee, which will also be governed by the provisions of Rule and Regulation 25.
- C. An update to Section 8(C) of Rule and Regulation 25 (Special Storm and Surface Water Drainage Utility Regulations) is needed in order to exempt certain developed parcels which do not impact City Storm Drainage Facilities from the City’s Storm Drainage Fee, and to clarify how the Storm Drainage Fee applies to parcels which only partially drain into the City’s Storm Drainage Facilities.
- D. Pursuant to Chapter 12.20.010 of the Palo Alto Municipal Code, the Council of the City of Palo Alto may by resolution adopt rules and regulations governing utility services, fees and charges.

The Council of the City of Palo Alto hereby RESOLVES as follows:

SECTION 1. Pursuant to Section 12.20.010 of the Palo Alto Municipal Code, Utility Rule and Regulation 25 (Special Storm and Surface Water Drainage Utility Regulations) is hereby amended as attached and incorporated. Utility Rule and Regulation 25, as amended, shall become effective November 1, 2016.

SECTION 2. This Resolution is not intended to increase the rate of the City’s existing Storm Drainage Fee. In the unintended event this Resolution would cause the Storm Drainage Fee to increase (as that term is defined in Government Code Section 53750(h)(1)), it is the intent of the City Council that the charge for that parcel continue to be calculated as if this Resolution had not been adopted. The reservation set forth in this Section does not apply to the Proposed Fee or to any fee that is approved in a mail ballot election conducted subsequent to the approval of this Resolution.

SECTION 3. The adoption of this resolution amending Utility Rules and Regulations does not meet the definition of a project for the purposes of the California Environmental Quality Act, under Public Resources Code Section 21065 and CEQA Guidelines Section

15378(b)(5), because it is an administrative governmental activity which will not cause a direct or indirect physical change in the environment.

INTRODUCED AND PASSED: October 24, 2016

AYES: BERMAN, BURT, FILSETH, HOLMAN, KNISS, SCHARFF, SCHMID, WOLBACH

NOES:

ABSENT: DUBOIS

ABSTENTIONS:

ATTEST:

DocuSigned by:  
*Beth Minor*  
45F95502DB71492...  
City Clerk

DocuSigned by:  
*Patricia Burt*  
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Mayor

APPROVED AS TO FORM:

APPROVED:

DocuSigned by:  
*Amy Bartell*  
D0B48F317E9342B...  
Senior Deputy City Attorney

DocuSigned by:  
*Jack J. ...*  
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City Manager

DocuSigned by:  
*[Signature]*  
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Director of Utilities

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*[Signature]*  
229154BC80A8476...  
Director of Administrative Services

**SPECIAL STORM AND SURFACE WATER  
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RULE AND REGULATION 25

**A. GENERAL**

For the purpose of City of Palo Alto Rate Schedule D-1 and this Rule and Regulation, the following words and terms shall be defined as follows, unless the context in which they are used clearly indicates otherwise. The definitions of words and terms set forth in Titles 12 and 13 of the Palo Alto Municipal Code shall also apply herein to the extent that they are not inconsistent herewith:

1. “Developed Parcel” shall mean any lot or parcel of land altered from its natural state by the construction, creation, or addition of impervious area, except public streets and highways.
2. “Equivalent Residential Unit (ERU)” shall mean the basic unit for the computation of storm drainage fees.

The ERU’s for all parcels other than single-family residential properties shall be computed to the nearest 1/10 ERU using the following formula:

$$\text{Number of ERU} = \frac{\text{Impervious Area (Sq. Ft.)}}{2,500 \text{ Sq. Ft.}}$$

The ERU's for single-family Residential properties shall be computed as set forth in CPAU Rate Schedule D-1.

3. “Impervious Area” shall mean any part of any developed parcel of land that has been modified by the action of Persons to reduce the land’s natural ability to absorb and hold rainfall. This includes any hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions pre-existent to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions pre-existent to development.

By way of example, common impervious areas include, but are not limited to roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, or any cleared, graded, paved, graveled, or compacted surface or packed



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earthen materials, or areas covered with structures or other surfaces which similarly impede the natural infiltration of surface water into the soil mantle.

4. “Non-Single-Family Residential Property” shall include all developed parcels zoned or used for multi-family, commercial, industrial, retail, governmental, or other non-single family Residential purposes and shall include all developed parcels in the City of Palo Alto not defined as single-family Residential property herein.
5. “Parcel” shall mean the smallest separately segregated lot, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a Tax lot number by the Santa Clara County Assessor.
6. “Primary CPAU Account” shall mean that CPAU Account, as determined below, that will be assessed the storm drainage fee for a given developed parcel:
  - a. If there is only one CPAU Account associated with a developed parcel, then that Account is the Primary CPAU Account.
  - b. If there is more than one CPAU Account associated with a developed parcel, then the Primary CPAU Account shall be the Account listed below, in order of preference:
    1. The CPAU Account designated as the “house Account” or, if none or more than one, then;
    2. The CPAU Account in the name of the owner of the parcel, or if none, then;
    3. The CPAU Account(s) in the name of the occupier(s) of the parcel.
    4. If more than one Account, then the CPAU Account that includes the most CPAU Services.
7. “Single-Family Residential Property” shall include all developed parcels with either one or two single-family detached housing units or one two-unit attached dwelling structure commonly known as a “duplex.”



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8. “Storm and Surface Water Control Facilities” shall mean all man-made structures or natural water course facility improvements, developments, properties or interest therein, made, constructed or acquired for the conveyance of Storm or Surface Water Runoff for the purpose of improving the quality of, controlling, or protecting life or property from any storm, flood, or surplus waters.
9. “Storm Drainage Facilities” shall mean the storm and surface water drainage systems comprised of storm and surface water control facilities and any other natural features which store, control, treat and/or convey storm and surface water. Storm Drainage Facilities shall include all natural and man-made elements used to convey storm water from the first point of impact with the surface of the earth to the suitable receiving body of water or location internal or external to the boundaries of the City of Palo Alto. Such facilities include all pipes, appurtenant features, culverts, streets, curbs, gutters, pumping stations, channels, streams, ditches, wetlands, detention/retention basins, ponds, and other storm water conveyance and treatment facilities whether public or private. See CPAU Rule and Regulation No. 8 “Access to Premises.”
10. “Storm and Surface Water” shall mean water occurring on the surface of the land, from natural causes such as rainfall, whether falling or flowing onto the land in question.
11. “Undeveloped Parcel” shall mean any parcel which has not been altered from its natural state by the construction, creation, or addition of impervious area.

**B. STORM DRAINAGE FEES**

1. There is hereby imposed on each and every developed parcel of land within the City of Palo Alto, and the owners and occupiers thereof, jointly and severally, a Storm Drainage fee. This fee is deemed reasonable and is necessary to pay for:
  - a. Improving the quality of storm and surface water;
  - b. The operation, maintenance, improvement and replacement of the existing City storm drainage facilities; and
  - c. The operation, maintenance, and replacement of future such facilities.



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It is the intent of the City of Palo Alto, and the City has calculated the storm drainage fee in such a manner, that the amount of the fee imposed upon any parcel shall not exceed the proportional cost of the service attributable to the parcel. It is the further intent of the City that revenues derived from the fee shall not exceed the funds required to provide the property-related Services described in this Rule and Regulation 25, and that revenues derived from the fee shall not be used for any purpose other than those described in this Rule and Regulation 25.

2. All of the proceeds of these fees are deemed to be in payment for use of City storm drainage facilities by the developed parcel on, and with respect to, which the fee is imposed, and the owners and/or occupiers thereof.
3. The storm drainage fee shall be payable monthly and shall be paid to CPAU, as billed by CPAU, for each and every developed parcel in the City by the owner or occupier responsible for the Primary CPAU Account for other CPAU Services for the subject parcel, unless otherwise agreed in writing by CPAU.

The method of billing described in this Rule and Regulation 25 has been designed for administrative efficiency. However, because the storm drainage fee is a "property-related fee" as defined by Article XIID, Section 6 of the California Constitution, a property owner may in writing request that the storm drainage fee for a parcel owned by the property owner be billed directly to the owner, notwithstanding the typical method of billing. Because the storm drainage fee is a "property-related fee," the parcel owner shall be responsible to pay all unpaid or delinquent storm drainage fees.

For administrative efficiency, the storm drainage fee for condominium and townhouse-style developments is typically billed to the CPAU Account of the Homeowners' Association.

4. If a developed parcel does not have a CPAU Account on the effective date of this Rule and Regulation, a new Account shall be established for that parcel and billed to the owner as shown on the latest County Assessor's property Tax rolls until such time as a Primary CPAU Account is established for other CPAU Services.
5. When an undeveloped parcel is developed, a new Account shall be established and billed to the owner of that parcel as shown on the latest property Tax rolls of the Santa Clara



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County Assessor until such time as a Primary CPAU Account is established for other CPAU Services.

**6. BASIS FOR CALCULATION**

- a. The storm drainage fee shall be based on the relative contribution of Storm and Surface Water from a given developed parcel to City storm drainage facilities.
- b. The relative contribution of Storm and Surface Water from each developed parcel shall be based on the amount of impervious area on that parcel and shall determine that parcel's storm drainage fee.
- c. For administrative efficiency, the impervious area of condominium and townhouse-style developments is typically calculated for the entire development rather than on a per-parcel basis.
- d. The extent of impervious area will be established to the nearest square foot by any of the following methods:
  - 1. Computation of the impervious area using on-site measurements of the apparent outside boundaries of the impervious area in or on such developed parcels made by CPAU or on its behalf; or
  - 2. Computation of the impervious area using the dimensions of the impervious area in or on the developed parcels which are set forth and contained in the records of the office of the County Assessor.
  - 3. Estimation, calculation and computation of the impervious area using aerial photography or photogrammetry, or using the information and data from on-site measurements of like or similar property or features or as contained in City or County records.
  - 4. Computation of the impervious area using information submitted by building permit Applicants on forms provided by the City, subject to review and correction by the City.



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**7. CALCULATION OF MONTHLY FEE**

Monthly fees for all developed parcels shall be computed in accordance with the following formula:

Number of ERU's x Rate per ERU as set forth in CPAU Rate Schedule D-1.

**8. APPLICATION**

- a.** Developed Parcels: Storm drainage fees shall apply to all developed parcels within the City, including those classified as non-profit or tax-exempt for ad valorem Tax purposes. The fees shall apply to all government properties, to the full extent permitted by the constitutions of the United States and the State of California, including developed parcels of the City of Palo Alto, City-owned buildings and parks, but excluding public streets and highways.
- b.** Undeveloped Parcels: Storm drainage fees shall not be levied against undeveloped parcels that have not been altered from their natural state as defined herein under "Impervious Areas."
- c.** Parcels That Do Not Use The City's Storm Drainage Facilities: Developed parcels that (i) have their own maintained storm drainage facility or facilities, and which do not utilize City Storm Drainage Facilities or (ii) which make no substantial contribution of Storm or Surface Water to the City's Storm Drainage Facilities shall be exempt from the fee. Developed parcels that have a portion of their impervious area within City of Palo Alto shall be charged only for that portion of impervious area which is in the City of Palo Alto.





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Developed parcels that drain partially into an area outside the City of Palo Alto shall be charged only for that portion of impervious area that drains into the City of Palo Alto or City Storm Drainage Facilities.

The City of Palo Alto has calculated the storm drainage fee for each parcel based on information available to the Public Works Department as to the amount of impervious area for the parcel, as well as other relevant information regarding the parcel. However, it is the intent of the City of Palo Alto that no fee shall exceed the proportional cost of Services attributable to the parcel. Therefore, a parcel owner has the right, through Administrative Review, to request a proportional reduction in the storm drainage fee if the owner believes that the parcel contributes less water to the City's Storm Drainage Facilities or uses fewer storm or surface water treatment Services, notwithstanding the amount of the parcel's impervious area.

**9. ADMINISTRATIVE REVIEW**

- a.** Any Person who owns or pays the storm drainage fee for a developed parcel and who disputes the amount of any storm drainage fee for the parcel, or who requests a deferred payment schedule therefor may request a revision or modification of such fee from the City Engineer.
- b.** The Person seeking Administrative Review shall make such request in writing pursuant to Rule and Regulation 11 Section H. The request for Administrative Review must be signed by the property owner. The City Engineer shall conduct the review.
- c.** The City Engineer shall review the request and all data and documentation deemed by the City Engineer to be relevant to the request, and shall make a written determination as to whether the fee for the parcel exceeds the proportional



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cost of the service attributable to the parcel. If the City Engineer determines that the fee is proportional to the cost of service, no adjustment shall be made. If the City Engineer determines that the fee exceeds the proportional cost of service, the fee shall be adjusted accordingly.

***(END)***



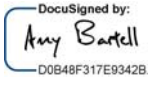

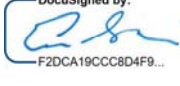
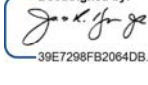
## Certificate Of Completion

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Document Pages: 10	Signatures: 6
Certificate Pages: 5	Initials: 0
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	Palo Alto , CA 94301
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## Signer Events

Signer Events	Signature	Timestamp
<p>Amy Bartell            Amy.Bartell@CityofPaloAlto.org            Senior Deputy City Attorney            City of Palo Alto            Security Level: Email, Account Authentication (None)            Electronic Record and Signature Disclosure:            Accepted: 7/16/2015 5:52:40 AM            ID: d8ecb53d-ef81-4016-8886-1560c48de42a</p>	<p>DocuSigned by:              D0B48F317E9342B...</p> <p>Using IP Address: 172.101.194.75</p>	<p>Sent: 11/9/2016 5:27:10 PM            Viewed: 11/10/2016 12:15:20 PM            Signed: 11/10/2016 12:15:44 PM</p>
<p>Lalo Perez            Lalo.Perez@CityofPaloAlto.org            Chief Financial Officer            City of Palo Alto            Security Level: Email, Account Authentication (None)            Electronic Record and Signature Disclosure:            Not Offered via DocuSign            ID:</p>	<p>DocuSigned by:              229154BC80A8476...</p> <p>Using IP Address: 199.33.32.254</p>	<p>Sent: 11/10/2016 12:15:45 PM            Viewed: 11/10/2016 1:17:01 PM            Signed: 11/10/2016 1:17:24 PM</p>
<p>Ed Shikada            ed.shikada@cityofpaloalto.org            Assistant City Manager            City of Palo Alto            Security Level: Email, Account Authentication (None)            Electronic Record and Signature Disclosure:            Not Offered via DocuSign            ID:</p>	<p>DocuSigned by:              F2DCA19CCC8D4F9...</p> <p>Using IP Address: 107.77.213.131            Signed using mobile</p>	<p>Sent: 11/10/2016 1:17:25 PM            Viewed: 11/14/2016 9:54:24 AM            Signed: 11/14/2016 9:55:04 AM</p>
<p>James Keene            james.keene@cityofpaloalto.org            City Manager            City of Palo Alto            Security Level: Email, Account Authentication (None)            Electronic Record and Signature Disclosure:            Accepted: 4/14/2015 5:40:07 PM            ID: 44fe333a-6a81-4cb7-b7d4-925473ac82e3</p>	<p>DocuSigned by:              39E7298FB2064DB...</p> <p>Using IP Address: 50.174.200.162</p>	<p>Sent: 11/14/2016 9:55:06 AM            Viewed: 11/16/2016 9:37:25 AM            Signed: 11/16/2016 9:37:34 AM</p>

Signer Events	Signature	Timestamp
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Patrick Burt  
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Mayor  
City of Palo Alto  
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