



Agenda Date: 3/13/2025

Agenda Item: 4C

Approved:

Lilia M. Corona
General Manager

STAFF REPORT

TO: Mt. View Sanitary District Board of Directors
FROM: Dan Adams, District Legal Counsel
DATE: March 13, 2025
SUBJECT: District Code Amendments-Call for Public Hearing

RECOMMENDATION

Adopt a Motion calling for a Public Hearing for May 8, 2025, to Amend the District Code and direct the Board Secretary to properly notice and publish the notice.

HISTORY

The District Legal Counsel and the former District Engineer Leptien collaborated in the drafting of the original District Code in 2012. Following adoption, it has been amended in 2013 and 2018. District operations and policies have been changed since its last amendment and Staff determined that further amendments are now appropriate. After consultation with the General Manager, Deputy General Manager, District Engineer, and District Legal Counsel, it has been determined that amendments as more particularly discussed herein are recommended.

The proposed Code Amendments were discussed with the General Manager, and she determined that they should first be presented to the Ordinance Committee for review and recommendation(s). The procedural requirements to amend the District Code include a Public Hearing and the adoption of an Ordinance. Staff recommends the Board take action this evening to schedule the Public Hearing for the April 10, 2025, Regular Board Meeting by adopting the above recommended Motion.

DISCUSSION

Set forth below is a summary chart identifying the proposed amendments to the District Code to update it for changes made to the District's operations and policies since its most recent amendments. The chart includes both substantive and non-substantive amendments. Substantive amendments have been highlighted in yellow and tracked changes provisions are attached. To save paper, non-substantive changes have not been attached but will be addressed in the final amended Code document presented for adoption. Following the Ordinance Committee Meeting, the proposed amendments may change and will be addressed in the Staff Report and proposed Ordinance presented at the April 10, 2025, Board Meeting.

SECTION / PARAGRAPH	DESCRIPTION
entirety	Change references from District Manager to General Manager
entirety	Change references from Assistant District Manager to Deputy General Manager
1.2	District Engineer definition still reflects contracted consultant "appointed by the District Board."
2.4.2	Confirm appointment list is current.
2.5.2.1	Change Regular Meeting time to 3:30 PM
2.5.1.4	Amend the first sentence.
3.20.7	Change "is located" to "are located" in first sentence.
4.3.1	The Code does not specifically reference Central San standard specifications which generally (there are a few exceptions) govern "the DISTRICT'S STANDARD SPECIFICATIONS," and this would be helpful reinforcement. This was done by a Board resolution in the past, and was found in "District bulletins" which are no longer in use. Suggest adding this after the first sentence: "The DISTRICT'S STANDARD SPECIFICATIONS adhere to the Central Contra Costa Sanitary District Standard Specifications for Design & Construction, Standard Drawings, and Approved Materials List, most recent editions of each document."
5.2.4	Either update the positions authorized to approve and issue permits, or change to "General Manager or their designee" to cover all authorized positions going forward.
6.2.1	Consider adding language to change from 15' to better reflect or reference Section 9-02 of the Central San Standard Specifications.
6.6.3	Consider adding language to change from 15' to better reflect or reference Section 9-02 of the Central San Standard Specifications.
7.2.4	Update reference to SSC study to latest study or make it a generic reference. Search for other references to MFS SSC and capacity fee studies and handle similarly.
7.4.1.5	To clarify, change the end of the last sentence to "...will be based upon the total number of fixture units reviewed (fixture units added plus fixture units removed)."
7.8.16	Change language in first and last sentences regarding when fees are collected to clarify and reflect current practice (which is prior to permit issuance).
7.9.3	Change the second reference to Table 7-3, which is incorrect, to Table 7-2.

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FISCAL IMPACT

Minimal Staff time related to the preparation and publication of a summary of the Ordinance amending the District Code.

RECOMMENDATION

Adopt a Motion scheduling a Public Hearing for May 8, 2025, and direct the Board Secretary to properly notice and publish the notice.

Attachments:

Tracked changes document reflecting substantive proposed amendments to 4.3.1, 5.2.4, 6.2.1, 6.6.3 and 7.2.4

CHAPTER 4
REGULATIONS GOVERNING THE CONSTRUCTION AND
TESTING OF WASTEWATER FACILITIES

4.1 PURPOSE.

Subject to the other provisions of this Code, including those related to the use of Wastewater Facilities, procurement of Permits, and the imposition of fees, rates and charges, this Chapter establishes regulations for the construction and testing of Wastewater Facilities connected to the District's Wastewater System. The purpose of these regulations is to provide for operation and maintenance of the District Sewer System in a reliable and serviceable manner and to abate Sanitary Sewage overflows through the elimination of stoppages and reduction of sources of infiltration and inflow into the System. (Ord. No. 2010-103)

4.2 EFFECT OF ARTICLE.

This article does not create any right, title or interest in any property. The Board may change or repeal any portion of it at any time. No property right becomes vested by operation of this article and the District is not liable for any change or repeal. (Ord. No. 93-68, Sec. 12.15)

4.3 DESIGN AND CONSTRUCTION STANDARDS.

4.3.1 Minimum standards for the design and construction of sewers within the District shall be in accordance with the DISTRICT'S STANDARD SPECIFICATIONS heretofore or hereafter adopted by District, copies of which are on file in the District office. The DISTRICT'S STANDARD SPECIFICATIONS adhere to the Central Contra Costa Sanitary District Standard Specifications for Design & Construction, Standard Drawings, and Approved Materials List, most recent editions of each document. The District Engineer, with the consent of the Board, may permit modifications or may require higher standards where unusual conditions are encountered. (Ord. No. 93-68, Sec. 6.07)

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4.3.2 Other Regulations. Plumbing Codes and other applicable building regulations adopted by the City of Martinez and by Contra Costa County for the unincorporated area within the District, respectively, shall govern the construction of Wastewater Facilities located within structures (i.e. Building Sewers) and outside of structures to the point where the building drain connects to the Building Sewer. (Ord. No. 2010-103)

4.3.3 Compliance with All Applicable Regulations. Every Person constructing or causing the construction of any Wastewater Facilities which are subject to this Code shall

5.2.4 Authority to approve and issue permits. The following persons are authorized to approve permits: ~~General District Manager or employee(s) designated by the General Manager, Assistant District Manager, SSMP Maintenance Coordinator and Senior Operator~~. A permit is deemed issued upon approval.
(Ord. No. 2013-111)

5.2.5 Indemnification. The Owner and Permittee shall, as a condition of the issuance of a permit, agree to defend, indemnify and hold harmless the District, its Directors, officers, agents and employees from any and all claims arising from or related to work performed under the permit. (Ord. No. 2010-103, Sec. 5.3.7.3)(Ord. No. 2013-111)

5.2.6 Deposit for Review of Permit Applications. The Owner/Applicant or Developer shall include with any application for a sewer permit a deposit in the amount set forth in Table 7-3 of Chapter 7 of this Code or as otherwise determined by the District Engineer. Review of the plans by the District Engineer may not commence until the required deposit has been made. The District will charge the applicant for the actual cost to review the permit application, including any sewer construction or tenant improvement plans that may be submitted with the application. The applicant may be required to increase the amount of the deposit if the review charges exceed the amount of the deposit. If the actual amount of the charges are less than the amount of the deposit the excess will be refunded to the Applicant or credited against the Sewer Construction, Connection or Wastewater Contribution Permit Deposit at the option of the applicant.
(Ord. No. 2013-111)

5.2.7 Permit Forms. The District Manager shall prescribe the form of District Permits and any supplemental materials related to permits. (Ord. No. 2010-103, Sec 8.04)(Ord. No. 2013-111)

5.2.8 Effective Period of a Sewer Permit. A Sewer Construction or Connection Permit is effective for a period of one year from the date it is issued, unless stated otherwise on the permit.
(Ord. No. 93-68, Sec. 8.07)(Ord. No. 2013-111)

5.2.9 Permits Not Transferable. A Sewer Construction or Connection Permit is not transferable. (Ord. No. 93-68, Sec. 8.08)(Ord. No. 2013-111)

5.3 SEWER CONSTRUCTION PERMITS

5.3.1 General. A Sewer Construction Permit must be secured by the Owner/Sewer Contractor before any sewer construction under the jurisdiction of the District may take place. A Sewer Construction Permit is required for the construction of Wastewater collection facilities including but not limited to the following:

- a) Main or Trunk Sewer and/or appurtenances

CHAPTER 6 EASEMENTS

6.1 PURPOSE

The purpose of this Chapter is to establish policies, standards and requirements for District Easements. (Ord. No. 2010-103)

6.2 EASEMENTS.

6.2.1 District Easements. In the event an easement is required for the extension of the District Wastewater System or the making of connections to it, the applicant shall procure and present for acceptance by the Board an easement or grant of right of way in favor of the District sufficient in law to provide an easement consistent with Central San Specifications, but at least a minimum width of fifteen (15) feet for the construction and maintenance of such extension or connection. The owner shall furnish and pay all expenses for procurement, including but not limited to agreements, legal descriptions, plats, legal, engineering, recordation fees and title reports required by this article and as otherwise required by the District Legal Counsel. (Ord. No. 93-68, Sec. 6.06) (Ord. No. 2013-111)

6.2.2 Private Easements. The policy of the District is that each dwelling unit or non-residential building has a separate connection to the public sewer. However, when a Side Sewer crosses an adjacent property and it is not feasible, in the sole discretion of District Manager, to comply with this policy, it shall be the responsibility of the upstream property owner to obtain an easement of the required width, but in no case less than 5 feet from the downstream property owner. This private easement shall be appurtenant to the upstream property and shall convey all rights necessary for construction, alteration, replacement, repair, maintenance and operation of the Side Sewer. If the maintenance of the sewer over the downstream property is to be shared. The easement shall be in the form of an agreement which provides for maintenance. All new private easement(s) shall be recorded at the County Recorder's Office and a copy of the recorded document provided to the District. (Ord. No. 2013-111)

6.3 ABANDONMENT OF EASEMENTS

6.3.1 General. Upon recommendation of the District Engineer that a certain easement is surplus, the Board of Directors may authorize abandonment. The owner shall furnish and pay for all expenses of abandonment, including any agreements, legal descriptions, plats, and title reports required by the District Legal Counsel to complete the abandonment. (Ord. No. 93-68, Sec. 7.01, rev. Ord. No. 2013-111)

6.3.2 Agreement Provisions. The written agreement to abandon an easement shall be reviewed and approved by District Legal Counsel and shall at a minimum include the following:

6.4.5 Abandon or Relinquish Ownership. Subject to its right to abandon or relinquish ownership of any Wastewater Facilities which are no longer in use and which are not required for future District needs, it is the District's position that it has heretofore acquired and owns Easement rights for all District Wastewater Facilities which are located in or on private property, whether or not the District's Easement rights are evidenced by a recorded written instrument or other writing providing notice of the District's claimed Easement rights. Where the Wastewater Facilities are, in fact, not located in the public right of way or within the District's Easement, the District may enter onto and conduct an appropriate investigation to determine the location of the Wastewater Facilities and take any necessary action to secure its property rights for the Wastewater Facilities, or to relocate them within the public right of way or the District's Easement, whichever is, in the District's sole judgment, more practicable. (Ord. No. 2010-103, rev. Ord. No. 2013-111)

6.5 CREATION OF DISTRICT EASEMENTS

District Easements. District Easements may be created in any manner allowed by law so long as the Easement has been approved and accepted by the District Board.
(Ord. No. 2010-103)

6.5.1 Conditions of District Easements. Notwithstanding any provision to the contrary, Easements to be conveyed to the District should ordinarily be created by express grant or reservation in a written instrument eligible for recordation in official records of the County of Contra Costa. The form and content of the instrument shall be acceptable to the District but shall not be effective until the instrument has been duly delivered to, approved and accepted by the District. (Ord. No. 2010-103, rev. Ord. No. 2013-111)

6.6 MINIMUM STANDARDS FOR EASEMENTS

6.6.1 District Requirements. Unless expressly waived by the District, an Easement conveyed to the District shall be subject to the following minimum standards:

6.6.1.1 For the purpose of exercising its principal Easement rights, the District shall be afforded the right of ingress and egress to, from, along, on, in, above and below the surface of the land encompassed by the Easement.

6.6.1.2 The Easement shall be subject to the provisions of this Code, and other rules and regulations promulgated by the District.

6.6.2 Exclusive or Non-Exclusive. Easements may be for the exclusive benefit of the District or they may be non-exclusive. If the Easement is nonexclusive, other users of the territory encompassed by the Easement shall be prohibited from interfering with the District's Easement rights.

6.6.3 Sanitary Sewers. In the case of Easements for Sanitary Sewers, the Easement shall have a horizontal width consistent with Central San Specifications, but at least fifteen (15) feet. (Ord. No. 2010-103)

**CHAPTER 7
FEES, RATES, CHARGES AND
OTHER FINANCIAL MATTERS**

7.1 PURPOSE.

7.1 This Chapter promulgates regulations governing fees, rates and charges imposed and collected by the District as authorized by the Act and other applicable provisions of law. This Chapter also makes provision for other related financial matters affecting the District and its constituents. Its purpose includes the provision for the recovery of costs from Users of the District's Wastewater disposal system. The applicable charges or fees shall be set forth in the District's Schedules of Charges and Fees which shall be reviewed annually and revised prior to July 1, unless otherwise determined by the Board. (Ord. No. 2010-103) (Ord. No. 2018-121)

7.2 SEWER SERVICE CHARGES

7.2.1 Authority. Pursuant to California Health and Safety Code Sec. 6520.5, a provision of the Sanitary District Act of 1923, the District elects to impose charges for sewer use hereafter referred to as "Sewer Service Charges". (Ord. No. 2010-103) (Ord. No. 2013-111)

7.2.1.1 Collection of Sewer Service Charges on County Tax Bills. Pursuant to Health & Safety Code Sec. 5473 et. seq. the District may elect to collect Sewer Service Charges annually through the County Tax Collector at the same time and by the same persons that collect ad valorem real property taxes. (Ord. No. 2010-102)(Ord. No. 2013-111)

7.2.1.2 Customers Subject to Charge. The owners of all premises connected to the District's Wastewater system and of all premises that are able to connect to the system are subject to Sewer Service Charges. Owners of premises that are unable to be connected to the system are exempt from Sewer Service Charges. It is the sole responsibility of the premise's owner to notify the District in writing of the grounds for any claimed exemption. (Ord. No. 2010-103)(Ord. No. 2013-111)

7.2.2 Annual Charge. The annual Sewer Service Charge shall be imposed on a fiscal year basis commencing on July 1 of the calendar year in which the fiscal year begins, and ending on June 30 of the next calendar year. (Ord. No. 2010-103)

7.2.3 Penalties for Delinquencies. See Section 7.20. (Ord. No. 2010-103)(Ord. No. 2013-111)

7.2.4 Basis of Residential Sewer Service Charge. According to the Final Evaluation of Sewer Service Charges prepared by Municipal Financial Services dated April 2017 (the

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“Sewer Service Charge Study”), the average flow and strength of the discharge from a single family residence within the District is as follows:

Flow	150 gallons per day (gpd)
BOD	287 milligrams per liter (mg/l)
TSS	287 mg/l

The average flow from an apartment within the District is 75% of this flow or 113 gallons per day. Average BOD and TSS for an apartment is approximately the same as for a single family residence.

It is fair, reasonable and lawful to charge single family residential users for Wastewater services based upon a flat rate because the differences in usage between one residential customer and another are relatively insignificant when consideration is given to the administrative burden and expense that would be required to conduct a usage-based system. Also, a flat-rate charge system for residential users is reasonable because there is no practical means to directly measure actual sewer use. Therefore, any usage-based system is at best an estimate of actual flows derived from factors which in a residential setting do not ensure that the usage-based charges will be significantly more accurate than a flat-rate charge. The flat-rate charge system achieves substantial proportionality of use on a District-wide basis. It is also reasonable according to the Sewer Service Charge Study to charge apartments a flat-rate equal to 75% of the flat-rate charge for single family residences.

(Ord. No. 2010-103) (Ord. No. 2017-120) (Ord. No. 2018-121)

7.2.5 Basis of Non-Residential Sewer Service Charge. Each non-residential Sewer Service Charge is based on Flow, Biological Oxygen Demand (BOD), and Total Suspended Solids (TSS) contribution in relation to the average flow discharged from a residential unit. (Ord. No. 2010-102).

7.2.5.1 Rate Based on Average Strength of Domestic Wastewater. Each User, not required to obtain a Wastewater Contribution Permit, shall pay the applicable charge as established by the District and set forth in the District's schedule of Sewer Service Charges. This charge rate shall be determined by multiplying the User classification charge by the determined Wastewater volume. The District may elect to apply a fixed unit charge as set forth in Table 7-1 Sewer Service Charges and Fees for certain User classifications based on Wastewater constituents and characteristics. For the purpose of determining Sewer Service Charge rates the minimum charge shall be based upon a typical average strength of domestic Wastewater, or:

Flow	150 gpd
BOD	287 mg/l
TSS	287 mg/l

(Ord. No. 93-69, Sec. 3.2.4, rev. Ord. No. 2013-111) (Ord. No. 2018-121 ___)