

ORDINANCE NO. 9

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTECITO SANITARY DISTRICT**

**ESTABLISHING CERTAIN RULES REGARDING
CONNECTION TO THE DISTRICT'S SEWER SYSTEM,
PROHIBITING CONNECTIONS THAT RESULT IN
RAINWATER OR STORMWATER DISCHARGES INTO THE
DISTRICT'S SEWER SYSTEM AND REQUIRING PROPERTY OWNERS
TO CONDUCT VIDEO INSPECTIONS OF PRIVATE SEWER LATERALS
THAT DISCHARGE INTO THE DISTRICT'S SEWER SYSTEM**

WHEREAS, the District is duly formed and operates pursuant to the Sanitary District Act of 1923, which is codified in Health and Safety Code section 6400 et seq. (the "Act"); and

WHEREAS, Section 6521 of the Act authorizes the District to make and enforce all necessary and proper regulations for all sanitary purposes not in conflict with the laws of the State of California; and

WHEREAS, Section 6522 of the Act further provides that the District may do any act necessary or proper to the complete exercise and effect of any of its powers, or for the purposes for which it was formed; and

WHEREAS, based upon the express authority set forth in the Act, the District desires to adopt this ordinance regulating connection to and use of the District sewer system; and

WHEREAS, the adoption of such an ordinance is exempt from the California Environmental Quality Act ("CEQA") in accordance with Section 15308 of the State CEQA Guidelines that exempts actions taken by regulatory agencies as authorized by State law or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment.

NOW, THEREFORE, the Board of Directors of the Montecito Sanitary District does ordain as follows:

Section 1. The following ordinance is hereby adopted to read as follows:

I. Purpose.

The purpose of this ordinance is to insure that a fair and equitable system is established for providing sanitary sewer service to residents of the District and for collecting the revenues necessary to build, operate and maintain the District's collection, treatment, and disposal system. Further, this ordinance prohibits the owners from making any connection to the District's sewer system that results in rainwater or stormwater being discharged into the District's sewer system. Finally, this ordinance is intended to authorize the District to require owners to conduct video inspections of private sewer laterals that discharge into the District sewer system in order to insure the proper maintenance and operation of the District's sewer system.

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II. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A. "Auxiliary structure" is any structure that is intended for any use other than a dwelling unit.

B. "Board" is the Board of Directors of the Montecito Sanitary District.

C. "District" is the Montecito Sanitary District.

D. "Dwelling unit" is defined as any structure/unit equipped with both food preparation (e.g. oven, cooking surface, microwave, etc.) and bathroom facilities that allows for independent living accommodations for one or more persons. Such units may exist as a house divided into more than one residence, a guest house, an attached or detached residential second unit, a studio, an apartment, a converted garage and/or any other structure attached to or separate from the principal dwelling unit on any parcel.

E. "Non-permitted connection" is any dwelling unit and/or auxiliary structure or portion thereof that has been connected to the District's sewer collection system without the issuance of a valid connection permit by the District.

F. "Owner" is the property owner of record at the time of discovery of the non-permitted connection.

III. Connection to Sewer System.

A. No person shall make any connection or maintain any connection to the District sewer system or to a lateral connected to the District sewer system without obtaining a written permit from the District and paying all required fees and charges.

B. No person shall make any connection or maintain any connection to the District sewer system or to a lateral connected to the District sewer system that results in rainwater or stormwater being discharged into the District sewer system.

C. Once any dwelling unit and/or auxiliary structure on a parcel has been connected to the District's sewer system, all dwelling units and/or auxiliary structures containing plumbing fixtures on that parcel must also be connected to the sewer system, and all on-site private disposal systems must be properly abandoned in accordance with the law.

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IV. Capacity Rights.

So long as capacity is available in the District's sewer system, the District will provide sanitary sewer service to all existing and/or new dwelling units and/or auxiliary structures upon payment of all applicable fees and charges and issuance of a District sewer connection permit.

V. Non-Permitted Connection to Dwelling Unit and/or Auxiliary Structure.

In the event a non-permitted connection to a dwelling unit and/or auxiliary structure exists, and the owner chooses to maintain the connection, owner shall be responsible for paying to District all current District fees and charges related to connecting to the District's sewer system and shall be responsible for payment of the annual sewer service charge from the date of the non-permitted connection.

VI. Voluntary Compliance.

Any owner that voluntarily discloses the existence of any non-permitted connection will not be charged fees and charges for any prior year's service charges. For such voluntary compliance, only current and future service charges and capacity fees will be imposed on the owner by the District.

XII. Refund Policy.

If sufficient evidence is submitted to the satisfaction of the District's General Manager that incorrect service charges have been collected by the District, the overcharge shall be refunded to the owner at the time of the General Manager's determination, subject to the following limitations:

- A. In no event shall an owner be eligible for a refund of service charges for a period of time in excess of three years from the date of the General Manager's determination.
- B. Owner is only eligible to receive a refund for the amount overpaid by that owner and not for any amount overpaid by a previous owner. Documentation of the date of title transfer must be submitted by the owner to the District with any request for consideration.

XIII. Video Inspection of Private Laterals and/or On-site Private Collection Systems.

A. District may require that an owner conduct video inspections of the private sewer lateral(s) and/or private on-site sewer collection systems that discharge into the District's sewer system. Upon written notice from the General Manager, within 90 days owner shall complete the video inspection of owner's private sewer lateral and/or private on-site sewer collection system and provide a copy of the video to District. District shall provide owner with the names of companies that are qualified to provide the video inspection of the private sewer laterals. Owner may choose another company at owner's discretion.

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B. In the event the video identifies any necessary repairs to the private lateral(s) and/or private on-site collection system, such repairs shall be undertaken at the owner's sole expense and completed within 90 days of receiving a written notice of repair from the District. Failure to comply with this provision may result in the imposition of civil penalties.

IX. Enforcement and Appeals.

A. Owner may appeal the General Manager's determination of any violation of this ordinance by requesting a review by the Board. At the Board hearing, the owner may present evidence to the Board as to why the alleged violation does not exist. Any hearing before the Board will require the preparation of written request for a hearing within 15 days after the final determination by District staff. If the owner does not request the hearing within the time allowed, the right to appeal the General Manager's determination shall be deemed waived.

B. The District will provide a final notice of determination explaining the decision of the Board and the required actions.

C. In the event any outstanding fees and charges are not paid in the manner ordered by the Board, such fees and charges will be added to the County tax roll for the property to be collected during the next fiscal year. In such instances, an additional administrative fee in the amount of \$300 will be added to the fees and charges.

Section 2. Findings.

In adopting this ordinance, the District Board hereby finds as follows:

A. That the content of this ordinance is a necessary and proper regulation for all sanitary purposes and is not in conflict with the laws of the State of California.

B. That the adoption of this ordinance is necessary and proper for the complete exercise of the purposes contained in the Sanitary District Act of 1923.

C. The improper maintenance of private sewer laterals may result in a discharge of excessive amounts of water into the District's sewer system resulting in the potential inundation of the District's sewer system and may cause damage to the District's sewer system and treatment plant. Further, improper maintenance may result in sanitary sewer overflows sending untreated wastewater into the waters of the United States and causing public health problems and environmental damage.

Section 3. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons. The District Board hereby declares that it would have adopted this ordinance and each chapter, article, section, subsection,

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subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more chapters, articles, sections, subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this ordinance shall supersede any local, State, or federal law, regulation, or code.

Section 4. Immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District. Ordinance No. 9 was adopted on November 8, 2005, to become effective following its publication in a newspaper of general circulation.

AYES: Arnold, Begley, Cannata and McKenzie

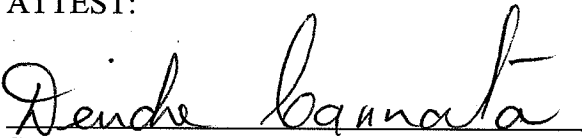
NAYS: None

ABSENT: Tmur



President

ATTEST:



Secretary

