

**RESOLUTION NO. 2016-897**

**RESOLUTION OF THE GOVERNING BOARD  
OF THE MONTECITO SANITARY DISTRICT  
ADOPTING A GENERAL REGULATION PROVIDING  
FOR SEWER SERVICE CHARGES  
AND REPEALING RESOLUTION NO. 2009-851**

The Governing Board of Montecito Sanitary District resolves as follows:

**ARTICLE I**

General Provisions

Section 1. Enabling Authority. This General Regulation is established and adopted pursuant to powers granted to the Montecito Sanitary District under the California Health and Safety Code.

Section 2. Application. This General Regulation shall apply to any person or persons, including corporations, and others owning or occupying parcels and premises connected or directed by the District to connect to the Montecito Sanitary District sewage system.

Section 3. Separability. If any portion of this General Regulation or the application thereof is held to be unconstitutional or for any reason invalid, the validity of all remaining portions and applications shall be unaffected and shall remain in full force.

**ARTICLE II**

Definitions

Section 1. General. For the purpose of this General Regulation and the fixing of rates and charges for the use of the District's sewage system (as distinguished from the fees charged for connecting to the sewage system authorized by another District resolution) there are two classes of users: "Residential" or "Commercial."

"Residential" shall include all buildings (structures) suitable and intended exclusively for use as a dwelling for one or more persons, and containing facilities for sleeping and the preparation of food (kitchen) and appropriate sanitary facilities. Such buildings shall include, but not be limited to, single family dwellings, residential condominiums, multi-family (apartments and duplexes), mobile homes, residential second units, and similar residential uses. Residential uses shall not include boarding houses, lodging houses, hotels, motels, hospitals, nursing facilities, or publicly owned parks, which uses shall be classified as "Commercial."

Section 2. Residential Uses. "Residential" uses include the uses defined in this section.

(a) Apartment. Means a room or suite of rooms with kitchen or cooking facilities occupied or suitable for occupation as a residence by one or more persons for living and sleeping purposes. For purposes of this Regulation, each apartment unit shall be assessed the same charges as a dwelling unit under the multi-unit/condominium rate.

(b) Building. Means a structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any person, animal, or chattel.

(c) Condominium. Means an estate in real property consisting of a separately owned interest in a portion of a parcel of real property or building, including residences and apartments containing separate kitchen or cooking facilities, and each unit of which will be used exclusively for a dwelling or residence. For purposes of this resolution, each condominium shall be assessed the same charges as a dwelling unit under the multi-unit/condominium rate.

(d) Duplex. Means a single detached building containing two dwelling units designed for or occupied by two separate families and having two kitchens. For purposes of this Regulation, each dwelling unit in the duplex shall be assessed the same charges as a dwelling unit under the multi-unit/condominium rate.

(e) Dwelling Unit. Means a building or portion thereof equipped with both food preparation and appropriate sanitary facilities which allows for permanent or temporary independent living accommodation for one or more persons, but not including boardinghouses, lodging-houses, hotels, motels, nursing facilities, or hospitals.

(f) Dwelling – Single Family. Means a single detached building designed for or occupied by only one family and having only one kitchen.

(g) Guest House. Means a detached living quarters of permanent construction without kitchen or cooking facilities, intended and used primarily for temporary guests or employees of the occupants of the main building on the parcel on which such guest house is located, and not rented or otherwise used as a separate dwelling unit. For purposes of this Regulation, a guest house is not a dwelling unit.

(h) Kitchen. Means a room, all or any part of which is designed, built, equipped, used, or intended to be used for cooking or preparation of food.

(i) Mobile Home. Means a structure certified under the National Manufactured Housing Construction and Safety Act 1974 that meets the definition of mobile home in section 18008 of the California Health and Safety Code. For purposes of this Regulation, a mobile home shall be assessed the same charges as a single-family dwelling.

(j) Parcel. Means a single parcel of land in one ownership for which a legal description has been filed and recorded or the boundaries of which are shown on a subdivision or a record of survey map that has been filed in the office of the county recorder.

(k) Residential Second Unit. Means a dwelling unit on a permanent foundation providing complete and independent living facilities (permanent provisions for living, sleeping, eating, cooking, water, and sanitation) for one or more persons on a parcel with a principal single-family dwelling. A residential second unit may be attached to the principle single-family dwelling or it may be a separate detached building. For purposes of this Regulation, a residential second unit shall be assessed the same charges as a dwelling unit under the multi-unit/condominium rate, if the principal single-family dwelling on the parcel is charged the single-family dwelling rate.

Section 3. Commercial Uses. "Commercial uses" include those uses defined in this section and that are not defined and included as residential uses in Sections 1 and 2 of this Article. Commercial uses are classified based on the strength of sewage discharged into the District sewage system. The District relies on guidelines promulgated by the California State Water Resources Control Board in determining the appropriate strength designation for commercial uses. A commercial user may appeal the sewage strength determination pursuant to Article V.

(a) Low strength. Those commercial uses discharging sewage into the District sewage system with a combined concentration of biochemical oxygen demand ("BOD") and suspended solids ("SS") of less than 325 parts per million ("ppm.") Typical low strength users are business offices.

(b) Medium strength. Those commercial uses discharging sewage into the District sewage system with a combined concentration of BOD and SS of more than 325 ppm, but less than 900 ppm. Typical medium strength users are residential schools.

(c) High strength. Those commercial uses discharging sewage into the District sewage system with a combined concentration of BOD and SS exceeding 900 ppm. Typical high strength users are restaurants.

### ARTICLE III

#### Sewer Service Charges

Section 1. There is hereby levied and imposed upon the owner or occupant of any parcel within Montecito Sanitary District, having any sewer connection with the District's sewage system or otherwise discharging sewage which ultimately passes through the District's sewage system, a sewer service charge as hereinafter provided.

Section 2. Sewer Service Rate Charges. Charges are shown for the entire fiscal year.

**RESIDENTIAL ANNUAL SEWER SERVICE CHARGES**

Residential Accounts (\$ per Year)	July 1, 2016-June 30, 2017	July 1, 2017-June 30, 2018	July 1, 2018-June 30, 2019
Single Family Dwelling	\$1,280	\$1,380	\$1,480
Condo or 2 <sup>nd</sup> Dwelling	\$602	\$649	\$696

**COMMERCIAL ANNUAL SEWER SERVICE CHARGES**

Total Annual Commercial Sewer Service Charge = Fixed Capacity Allocation Charge + Variable Charge

<b>Fixed Capacity Allocation Charge (\$ per hundred cubic feet (HCF) of Historic Maximum Annual Water Use)</b>			
	July 1, 2016-June 30, 2017	July 1, 2017-June 30, 2018	July 1, 2018-June 30, 2019
Low Strength Sewage	3.75	4.04	4.33
Medium Strength Sewage	8.92	9.62	10.32
High Strength Sewage	10.89	11.74	12.59

<b>Variable Charge (\$ per hundred cubic feet (HCF), Based on Prior Calendar Year Actual Water Use)</b>			
	July 1, 2016-June 30, 2017	July 1, 2017-June 30, 2018	July 1, 2018-June 30, 2019
Low Strength Sewage	2.49	2.69	2.88
Medium Strength Sewage	3.42	3.69	3.96
High Strength Sewage	4.81	5.19	5.57

Section 3. Computation of Commercial Rate

(a) Fixed Capacity Allocation Charge. The fixed capacity allocation charge for commercial users shall be computed based upon the maximum historical annual water use during a calendar year, which represents the level of capacity that the District must reserve for handling the potential discharge from each commercial user. The amount of the maximum historical annual flow for each commercial user shall be based upon the commercial user’s water bill provided by the Montecito Water District. In the event such records are not available from the Montecito Water District, the commercial user shall furnish such records to the District within ten days upon written request by the District.

(b) Variable Charge. The variable sewer service charge for commercial users shall be computed based upon the strength of sewage discharged and the amount of water used by the commercial user during the previous calendar year as depicted in the commercial user’s water bill provided by the Montecito Water District. In the event such records are not available from the Montecito Water District, the commercial user shall furnish such records to the District within ten days upon written request by the District.

Section 4. The sewage strength classifications shall be derived from BOD and SS values. The BOD values shall represent five day BOD strengths, as defined by standard industrial practices.

Section 5. Unclassified Commercial Uses. For a commercial premises having a sewer connection but for which a specific classification for sewer service charges has not been set forth in this Article, the District shall charge such rate as in its sole discretion it deems applicable for the kind of use being made of the premises in relation to the uses made of classified premises and the rate in this General Regulation fixed for said classified premises. Notwithstanding anything to the contrary in this Regulation, the minimum annual rate for any unclassified premises or parcel being served shall be the current residential rate for a single-family dwelling.

#### ARTICLE IV

##### Collection

Section 1. Whereas in 1990 the Governing Board adopted District Ordinance No. 6 electing to have sewer charges placed on the tax roll of the County of Santa Barbara, as authorized by section 5473 of the California Health and Safety Code, the sewer service charge shall be placed on the tax roll and collected with the County tax statements. If an application for a connection is made after June 30th in any given year so as to be too late to be placed on the tax statement, then the applicable rate for the pro-rated balance of the fiscal year must be paid in advance at the time of making application.

Section 2. The powers authorized by this Article shall be alternative to all other powers of the District authorized by the applicable provisions of the California Health and Safety Code for the collection of the sewer service charges provided for herein.

Section 3. As an alternative to any procedure allowed by this Regulation, the District may collect delinquent sewer service charges and penalties thereon by way of the County Tax Roll or by suit, in which event judgment for the District shall include legal costs and attorney's fees.

#### ARTICLE V

##### Hearing Procedures -- Commercial Users

###### Section 1. Reduction in Volumetric Water Billing

(a) Any commercial user may submit a written request to the District's General Manager or designee ("District Manager") for a one-time reduction in volumetric water billing. The written request must specify the volume of water that will bypass or has in its entirety permanently bypassed the District's sewage system.

If a request seeks a reduction of more than 500 Hcf of metered water, the written request must be certified by a civil engineer registered in the State of California. The volume of water must be technically calculated by a verifiable methodology and based on actual metered water.

(b) The District Manager shall consider all evidence submitted by the commercial user and any other information and evidence available to the District and make a decision thereon. The District Manager's decision shall be in writing and shall be made within thirty days.

(c) In the event a commercial user disagrees with the decision of the District Manager, the commercial user may request a hearing before the Governing Board. The District shall schedule such public hearing at the earliest convenient time. The hearing shall be conducted informally and the Governing Board's decision shall be final.

#### Section 2. Sewage Strength Classification

(a) Any commercial user may submit a written request to the District Manager for a variation in the commercial user's sewage strength classification as determined by the District. The written request must specify (1) the amount of metered water discharged into the District's sewage system, and (2) the strength of the sewage being discharged into the District's sewage system. The written request must be quantified by a verifiable and technically calculated methodology, and must be certified by a civil engineer registered in the State of California.

(b) The District Manager shall consider all evidence submitted by the commercial user and any other information and evidence available to the District and make a decision thereon. The District Manager's decision shall be in writing and shall be made within thirty days.

(c) In the event a commercial user disagrees with the decision of the District Manager, the commercial user may request a hearing before the Governing Board. The District shall schedule such public hearing at the earliest convenient time. The hearing before the Governing Board shall be conducted informally. The decision of the Governing Board shall be final.

(d) Any decision by the District Manager or the Governing Board granting a variation in a commercial user's sewage strength classification shall be valid for five years. The District Manager or Governing Board's decision granting a reduction in a commercial user's strength of sewage may be vacated by District, following written notice to the commercial user, in the event of a change in operations by the commercial user. Upon the expiration of the five-year period the commercial user may renew the request for an additional five-year period. A renewal shall be subject to the same application, hearing, and appeal process based upon updated evidence.

**ARTICLE VI**

## Relief

Section 1. Relief. Any person, who by reason of special circumstances contends that the application of this General Regulation as to that individual is unjust or inequitable, may make written application for relief to the Governing Board. Said application shall set forth all of the special facts and circumstances and shall request the specific desired relief or modification. The Board, upon receipt of such application and after such investigation as deemed necessary, may take action to grant such relief or modification as it finds necessary. The Governing Board may on its own motion and without application when special circumstances make the application of this General Regulation a hardship or unjust or inequitable, modify or suspend this General Regulation for the period during which the special circumstances exist.

**ARTICLE VII**

## Charges and Rates Do Not Exceed Costs

Section 1. This Governing Board finds and determines that the charges, rates, and fees as set forth in this General Regulation do not exceed the estimated reasonable cost of providing the service for which the charges, rates and fees are charged.

**ARTICLE VIII**

## Exemption from CEQA

Section 1. Pursuant to section 21080 (b)(8) of the California Public Resources Code, the Governing Board finds and determines that the establishment of the charge rates and fees imposed by this General Regulation are exempt from requirements of the California Environment Quality Act for reasons set forth in section 21080.

**ARTICLE IX**

## Repeal

Section 1. All District regulations and ordinances or parts or portions thereof, including, but not limited to, Resolution No. 2009-851, that are inconsistent or contrary to this General Regulation are hereby repealed and declared to be of no further force and effect.

PASSED AND ADOPTED by the Governing Board of MONTECITO SANITARY DISTRICT this 9<sup>th</sup> day of May 2016, by the following vote:

AYES: Owens, Kerns, Ishkanian, Williams, Kern

NAYS:

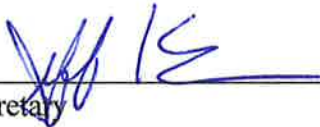
ABSTAIN:

ABSENT:



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President  
of the Governing Board of the  
MONTECITO SANITARY DISTRICT

ATTEST:



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Secretary  
of the Governing Board of the  
MONTECITO SANITARY DISTRICT

