

ORDINANCE NO. 322

AN ORDINANCE OF THE CENTRAL CONTRA COSTA SANITARY DISTRICT
REVISING DISTRICT CODE CHAPTER SECTIONS
1.04, 2.04, 4.04, 4.12, 4.16, 4.24, 5.04, 5.08, 6.12, 6.24,
7.02, 7.15, 7.20, 9.08, 9.10, and 11.10

WHEREAS, the Central Contra Costa Sanitary District (Central San) has determined that there is a need to update certain provisions within Chapters 1, 2, 4, 5, 6, 7, 9, and 11 of the District Code; and

WHEREAS, a public hearing was noticed pursuant to Government Code Sections 50022.3 and 6066 for May 26, 2022, at 2:30 p.m. at the District Board of Directors Regular Meeting scheduled for that date; and

WHEREAS, a properly noticed public hearing was held on May 26, 2022, where all interested parties were given an opportunity to be heard, and thereupon the public hearing was closed; and

WHEREAS, District Counsel has reviewed these proposed Code revisions and concluded that adoption of these Code modifications does not constitute a California Environmental Quality Act (CEQA) Project as defined under Title 14 of California Code of Regulations; specifically, it does not constitute a Project pursuant to §§ 15378(b)(2), 4) and (5) because:

- i) this action is continuing administrative in nature, and deals with general policy and procedure making; and
- ii) it does not create any governmental funding mechanism or fiscal activity involving a commitment to any specific project; and
- iii) it is an organizational and administrative activity that will not result in any direct or indirect changes to the environment; and

WHEREAS, the Board of Directors duly considered all oral and documented evidence.

NOW, THEREFORE, the Board of Directors of the Central Contra Costa Sanitary District does ordain as follows:

The following sections of the District Code shall be amended to read as follows:

1. Amendment of Section 1.04.100 EE

1.04.100 Definitions.
(Section EE)

EE. Reserved.

2. Amendment of Section 2.04.010

2.04.010 Selection and term of President and President Pro Tem.

The Board shall choose one of its members as President and President Pro Tem at the first meeting of December, serving for a one-year period, except during election years where new members are seated. In such case, the Board shall instead choose one of its members for each position at the second meeting of December.

3. Amendment of Section 2.04.020

2.04.020 Appointment of committees.

When the Board considers it necessary for the efficient transaction of business, it may approve the creation of ad hoc and standing committees for the purpose of reviewing, investigating and recommending with reference to a particular matter. The President shall nominate the members of all ad hoc and standing committees for Board approval.

4. Amendment of Section 4.04.020

4.04.020 Board authorization of positions and recognition of appointments.

The Board shall authorize all Executive Management positions, including the General Manager, Secretary of the District, and District Counsel, and shall delegate authority to the General Manager for all other such positions approved in the annual budget provided in this chapter. The Board shall be advised on all appointments to all such positions.

5. Amendment of Section 4.12.010

4.12.010 Adoption of class descriptions and salaries.

Class descriptions covering all positions of District employment, and a schedule of salaries for each position, shall be approved, amended and adopted or abolished by the General Manager, with the exception of Executive Management positions, including the General Manager, Secretary of the District, and District Counsel.

A Salary Schedule for all positions shall be adopted by the Board of Directors upon any Board approved adjustments.

6. Amendment of Section 4.12.040

4.12.040 Change of classifications.

The Board may establish, amend or abolish provisions relating to the General Manager, Secretary of the District, and District Counsel classifications. The General Manager may amend or abolish a class and may establish, amend or abolish provisions relating to a class or positions within a class, subject as applicable to a union meet and confer process as defined in Section 4.24.100. These actions may not result in an increase of the Sanitary District's annual budgeted labor costs. A copy of any revised or amended class description shall be available for review in the Human Resources Division.

7. Amendment of Section 4.16.040 B.

4.16.040 Medical report.
(Section B)

B. External candidates for appointment also shall be required to be tested for alcohol or illegal substances, if applicable based on the job classification. A positive test result is grounds for disqualification from consideration for employment.

8. Amendment of Section 4.16.070

4.16.070 Appointments.

A. Executive Management level positions, including the General Manager, Secretary of the District, and District Counsel are Board-appointed positions.

B. Management level positions, including but not limited to, department directors and division managers are General Manager-appointed positions.

C. The District shall make all other staff level appointments from the appropriate District eligibility list. The District may either make a temporary appointment, an emergency appointment, or a provisional appointment as provided in Sections 4.16.080, 4.16.090 and 4.16.100.

9. Amendment of Section 4.16.080

4.16.080 Temporary appointments.

The District may from time to time require the services of temporary personnel to perform those duties and responsibilities normally performed by existing personnel. A temporary appointment is generally limited to twelve months, or as specified in memoranda of understanding and does not qualify the appointee for the retirement plan, the insurance plans (unless self-paid), vacation allowance, or other employment rights and benefits made available to regular employees, except as may be required by law.

The General Manager may establish a rate of compensation for a temporary employee different from that of a regular employee.

A. The Board may create specific temporary classes at their discretion with compensation and benefits to be determined by the Board.

B. Sanitary District temporary employees will be provided an annual grant of three days of paid sick leave within a twelve-month period, and as directed by a Board policy.

10. Amendment of Section 4.24.110 D.

4.24.110 Administration of employer/employee ordinance.
(Section D)

D. With the exception of those meetings referenced in Section 4.24.090, a certified employee organization may, with prior notice to and approval of the Director of Administration or his/her designee, hold no more than two meetings per year during normal working hours of the District. Meetings referenced in this section shall only take place at three p.m. unless the District and employee organization otherwise agree to a mutually acceptable time. If the meeting is to be held on District premises, they then must comply with the scheduling requirements of the area in which they propose to have their meeting.

11. Amendment of Section 5.04.015

5.04.15 Properly licensed contractors.

All contractors doing sewer/recycled water work within the District shall be properly licensed in accordance with the state of California Contractors License Law and the California Contractors State License Board rules and regulations. Acceptable license classifications are: "A"-General Engineering Contractor; "B"-General Building Contractor; "C-34"-Pipeline; "C-36"-Plumber; "C-42"-Sanitation Systems; and "C-47"-General Manufactured Housing Contractor; and/or those classifications which may be promulgated in the future by the state of California which provide for performance of like work.

The sewer/recycled water work which contractors with B, C-36, or C-47 licenses may perform is restricted to private side sewers/recycled water from public sewer/recycled water mains to buildings, excluding connections to the public sewer/recycled water mains.

A "B"-General Building Contractor shall only be issued a sewer work permit related to a larger project that requires that contractor to perform at least two unrelated building trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate license classification or subcontracts with an appropriately licensed specialty contractor to perform the work.

A "C-47"-General Manufactured Housing Contractor shall only be issued a sewer work permit to provide sewer service on a single-family individual site placement of a manufactured home.

12. Amendment of Section 5.08.010

5.08.010 Insurance required.

A. A contractor who applies for a contractor's permit shall obtain and maintain workers compensation insurance as required by California law and general liability insurance.

B. It is the contractor's sole responsibility to obtain insurance. This section is not intended, nor was any previous version of this section intended, to create or impose any duty upon the District to ensure that contractor obtains and maintains this insurance. However, due to the importance of liability, safety and insurance issues, the District may, on a case-by-case basis, investigate the contractor's insurance coverage at any time. Failure of the contractor to obtain and maintain insurance as set forth in this section may cause the denial and/or suspension of a contractor's permit, at the sole and absolute discretion of the District.

13. Amendment of Section 6.12.030 D.1.

6.12.030 General provisions.

(Section D "Time for Payment and Penalties for Delinquent Payment", subsection 1.)

1. Except for users who elect to participate in the capacity fee installment payment programs as provided below, payment of capacity fees shall be due and made prior to the time of imposition of any added burden. Payment of Capacity Fees will be made at the time the District approves building plans. For a change of use where no new connection is proposed by the user, payment of Capacity Fees will also be made at the time the District approves building plans. If an added burden occurs without payment of capacity fees, payment shall be due at the time of the District's discovery of the added burden.

14. Amendment of Section 6.24.020

6.24.020 Basis of charge.

A. The basis of the sewer service charge is a fair and equitable distribution of sewer system costs to users of the sewer system. Periodic cost of service studies shall be conducted to support the District's revenue requirement, allocation of costs, customer classes and rate design for recovery of costs within classes.

B. As a predominantly residential service agency, the basic unit charge established in this chapter by the District is that necessary to recover the sum of total system and plant operation, maintenance, and replacement costs (including pay as you go and debt service costs funding capital needs), and general administration and accounting cost for providing service to an average single-family dwelling unit, and shall be a flat rate per year per living unit. Rates for multi-family dwelling units shall also be calculated as a flat rate per living unit. The basic unit charge for other users of the system shall be in units of one hundred cubic feet of sewage discharged to the sewer system.

C. Charges for nonresidential users shall be estimated based on their use of the sewer system for the previous calendar year. The General Manager shall establish procedures to fairly and equitably estimate use of the sewer system for new service or when sufficient historic data is not available. Such procedures may include the use of standard flow factors established by ordinance.

D. Certain other costs of the District include recovery of capital costs and debt service related to the funding of capital costs. Capital improvement costs for plant and sewer system shall be financed, to the extent possible, primarily from revenues derived from ad valorem taxes, annexation charges, agency contracts, and connection charges, and from sewer service charges and debt proceeds as necessary. These rates and charges shall be established by ordinance of the Board of Directors of the District and reviewed periodically.

15. Amendment of Section 7.02.020

7.02.020 Irrevocable offers of dedication, requirement of acceptance.

A. An offer of dedication ("offer") can be submitted by subdivision map to any local public agency for approval pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or directly to the District by separate instrument.

B. An offer can be made for an area partially or completely within the District's boundaries, or for an area which is intended to be annexed to the District pursuant to the development of that subdivision.

C. An offer of dedication of an easement or public right-of way, such as a street, road, trail or path, explicitly or implicitly for sewer/recycled water purposes shall be deemed to be an irrevocable offer of dedication ("irrevocable offer") in favor of the District.

The rejection of an offer by any other local public agency shall not affect the irrevocable offer potentially available to the District or the District's right to later accept such offers for sanitary sewer/recycled water purposes.

D. Prior to the District issuing a permit for construction, the applicant shall submit documentation conclusively demonstrating that adequate rights-of-way were acquired in

favor of the District. This documentation shall be by one or more of the following instruments, on forms acceptable to the District and suitable for recording:

1. evidence of submittal of a subdivision map, which was favorably reviewed by the District, for approval to the county or city with jurisdiction pursuant to the Subdivision Map Act;
2. submittal of properly executed irrevocable offers;
3. submittal of documents reflecting appurtenant rights pursuant to the provisions of Chapter 7.04 of this code; and/or
4. grants of easement or similar documents.

General or specific-case authority to receive and record irrevocable offers may be delegated to the General Manager by resolution of the Board.

E. Neither the receipt nor recording by the District of an irrevocable offer nor a property owner's filing of a subdivision map shall constitute acceptance of the offer.

16. Amendment of Section 7.02.030

7.02.030 Irrevocable offers of dedication - Acceptance.

A. The District may accept any irrevocable offer in its entirety or limited to certain locations within a larger dedication.

B. Except those real property interests stated in Chapter 7.01, an irrevocable offer shall be accepted by the District only by either: (1) adoption and recording of a resolution of the Board; or (2) by execution and recording of a "Certification of Acceptance" by the General Manager pursuant to a resolution of the Board delegating general or specific case authority to accept offers of dedication.

C. In no event shall such an acceptance subject the District to responsibility for maintenance or liability arising from facilities that were not specified in the "notice of acceptance of sewer/recycled water facilities." Furthermore, the District does not maintain the surfaces of rights-of-way or easements. For example, the District does not maintain roads, streets, trails, paths, slopes, fences, vegetation, except required to maintain and service District facilities.

17. Amendment of Section 7.02.050

7.02.050 Grants of easement - Acceptance.

A. Notwithstanding the rights and prerogatives granted under this chapter, the District reserves to itself the power to acquire grants of easements for sewer/recycled water purposes when, in its discretion, it determines that it is advisable to do so. The grants of easements shall be accepted by the District only by either: (1) adoption and recording of a resolution of the Board; or (2) by execution and recording of a "Certification of Acceptance" by the General Manager pursuant to a resolution of Board delegating general or specific case authority to accept offers of dedication.

B. In no event shall such an acceptance subject the District to responsibility for maintenance or liability arising from facilities that were not specified in the "notice of acceptance of sewer/recycled water facilities." Furthermore, the District does not generally maintain the surfaces of rights-of-way or easements. For example, the District does not maintain roads, streets, trails, paths, slopes, fences, vegetation, except as required to maintain and service District facilities.

18. Amendment of Section 7.15.010 B.1.

7.15.010 Definitions.

(Section B "Encroachment", subsection 1.)

1. Class One Encroachments. These are encroachments that may result in significant interference with District's use of easements unless adequate safeguards and/or mitigation measures are taken. Examples of Class One encroachments ordinarily include: Interlocking pavers, pervious pavers, patios or decks without subsurface foundations, modest landscaping, minor cuts and fills, and sheds or storage units that are readily removable from the easement.

19. Amendment of Section 7.20.010

7.20.010 District right to access District facilities on private or public property.

Where the District has facilities within easements, reservations or rights-of-way, including those real property interests acknowledged, asserted and declared in Chapter 7.01, the District shall have the right to enter private property in order to construct, reconstruct, renew, alter, operate, maintain, inspect, repair and replace District facilities and as set forth in Section 1.08.020 of this code. The District may also remove landscaping and other encroachments within the easement, reservation or right-of-way that significantly impede access to District facilities or unreasonably interferes with the construction, reconstruction, renewal, alteration, operation, maintenance, repair or replacement by District of its facilities within the easement, reservation or right-of-way.

In no event shall such access subject the District to responsibility for maintenance of the easement or rights-of-way, or the surrounding property across which it travels. For example, the District is not responsible for maintenance of the surfaces of roads, streets, trails, paths, slopes, fences, vegetation, except as required to maintain and service District facilities.

20. Amendment of Section 9.08.030 B

9.08.030 Acceptance of sewage facilities.
(Section B)

B. After October 2, 2008, acceptance of sewer facilities shall be considered after the following are met:

1. pass inspection by the District; and
2. pass a one-year warranty; and
3. appropriate land rights per Section 7.020 were recorded.

The Board delegates to the General Manager the responsibility and authority to accept, or reject, any sewer facilities offered for contribution to the District. The facilities shall be deemed to be accepted by the District as of the date and to the extent stated in a "notice of acceptance of sewer facilities", or a substantially similar, document issued to an installer.

21. Amendment of Section 9.10.040

9.10.040 Ownership, maintenance and connection of side sewers.

A side sewer is a private facility. The property owner shall be responsible for constructing, repairing and maintaining the entire side sewer between the building and the public sewer (including both the lateral and building sewers, and the tap, saddle or wye connection fitting at the public main sewer). The District shall not be financially responsible for any side sewer construction, operation, maintenance, repair, abandonment or other costs whatsoever, except where the District itself or its contractor reconstructs or realigns the public sewer, thereby necessitating the reconnection of private side sewers to the public sewer.

Property owners shall maintain side sewers in such a manner as to prevent overflows.

The District Board of Directors has determined that side sewer overflows may constitute a public nuisance as defined in Chapter 1.04. The Board delegates authority to the General Manager to determine whether the condition of a side sewer constitutes a public nuisance.

If the General Manager determines that a side sewer constitutes a public nuisance, the District reserves the right to abate this nuisance as detailed in Chapter 1.08.050 and recover associated costs as detailed in Chapter 1.08.090.

22. Amendment of Section 11.10.030

11.10.030 Ownership.

The District is the sole owner of the distribution facilities up to and including the customer service meters. Customer service meters shall be owned by the District. All facilities on the customer side of the point of connection shall be owned, operated and maintained by the recycled water customer.

Acceptance of distribution facilities shall be considered after the following are met:

1. pass inspection by the District; and
2. pass a one-year warranty; and
3. appropriate land rights per Section 7.020 were recorded.

The Board delegates to the General Manager the responsibility and authority to accept, or reject, any distribution facilities offered for contribution to the District. The facilities shall be deemed to be accepted by the District as of the date and to the extent stated in a "notice of acceptance of recycled water distribution facilities," or a substantially similar, document issued to an installer.

23. Finding of No "Project"

The District Board's action in adopting the proposed Code revisions does not constitute a Project as envisioned by CEQA, as this action is consistent with defined circumstances which do not constitute a Project pursuant to the provisions of Title 14 15378(b)(2), (4) and (5).

24. Effective Date

This Ordinance shall be a general regulation of Central San and shall be published once in the *Contra Costa Times* and *San Ramon Valley Times*, newspapers of general circulation within the District Boundary and shall be effective on June 17, 2022. This Ordinance shall be kept on file with the Secretary of the District.

PASSED AND ADOPTED by the Board of Directors of the Central Contra Costa Sanitary District on the 2nd day of June 2022, by the following vote:

AYES: Members: Hockett, Lauritzen, McGill, Pilecki, Williams
NOES: Members: None
ABSENT: Members: None

David Williams

David R. Williams
President of the Board of Directors
Central Contra Costa Sanitary District
County of Contra Costa, State of California

COUNTERSIGNED:

Katie Young

Katie Young
Secretary of the District
Central Contra Costa Sanitary District
County of Contra Costa, State of California

Approved as to form: *Kenton L. Alm*

Kenton L. Alm, Esq.
Counsel for the District