

ORDINANCE NO. 24

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT ESTABLISHING AN ADMINISTRATIVE REMEDIES PROCEDURE FOR CHALLENGES TO FEES, CHARGES, AND ASSESSMENTS

RECITALS

WHEREAS, the Montecito Sanitary District ("District") is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq.;

WHEREAS, under Health and Safety Code sections 6490 & 6491.3, the Board is authorized to adopt ordinances to establish general regulations for the District;

WHEREAS, the California Legislature adopted Assembly Bill No. 2257 to establish an exhaustion of remedies requirement for property-related sewer fees, charges, and assessments;

WHEREAS, Article XIIC, Section 1(e) of the California Constitution defines fees, charges, and assessments; and

WHEREAS, the District desires to codify those requirements for all District related fees, charges, and assessments.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:

SECTION 1. Authority. This Ordinance is authorized by California Constitution, article XI, section 9 (utility power); the District's statutory authority to adopt fees and charges for its services, to impose assessments on real property, and to establish rules and regulations governing such fees, charges, and assessments; Government Code section 53759.1; and, other applicable law.

SECTION 2. Exhaustion of Administrative Remedies for Challenges to Fees, Charges, and Assessments on Real Property

I. — Scope.

The duty to exhaust administrative remedies imposed by this section extends to:

- A. any fee or charge subject to articles XIII C or XIII D of the California Constitution,
- B. any assessment on real property levied by the District, and
- C. the methodology used to develop and levy such a fee, charge, or assessment.

II. — Definitions.

“Hearing” means the public hearing referenced in paragraph D of section 3.22.040 of this chapter.

III. — Duty to Exhaust Issues.

No person may bring a judicial action or proceeding alleging noncompliance with the California Constitution or other applicable law for any new, increased, or extended fee, charge, or assessment levied by the District, unless that person submitted to the Secretary of the Board a timely, written objection to that fee, charge, or assessment specifying the grounds for alleging noncompliance. The issues raised in any such action or proceeding shall be limited to those raised in such an objection unless a court finds the issue could not have been raised in such an objection by those exercising reasonable diligence.

IV. — Procedures.

The District shall:

- A. Make available to the public any proposed fee, charge, or assessment to which this chapter is to apply no less than 45 days before the deadline for a ratepayer or assessed property owner to submit an objection pursuant to paragraph D of this section.
- B. Post on its internet website a written basis for the fee, charge, or assessment, such as a cost of service analysis or an engineer’s report, and include a link to the internet website in the written notice of the Hearing, including, but not limited to, a notice pursuant to section 4(c) or Section 6(a)(1) of Article XIII D of the California Constitution.
- C. Mail the written basis described in paragraph D of this section to a ratepayer or property owner on request.
- D. Provide at least 45 days for a ratepayer or assessed property owner to review the proposed fee or assessment and to timely submit to the Secretary of the Board a written objection to that fee, charge, or assessment that specifies the grounds for alleging noncompliance. Any objection shall be submitted before the end of the public comment portion of a Hearing on the rate, charge or assessment.
- E. Include in a written notice of the Hearing, a statement in bold-faced type of 12 points or larger that:
 1. All written objections must be submitted to the Secretary of the Board by the end of public comment period at the Hearing and that a failure to timely object in writing bars any right to challenge that fee, charge, or assessment in court and that any such action will be limited to issues identified in such objections.
 2. All substantive and procedural requirements for submitting an objection to the proposed fee, charge, or assessment such as those specified for a property-related fee under California Constitution, article XIII D, section 6(a) or for an assessment on

real property under California Constitution, article XIII D, section 4(e).

V. — Board Consideration; District Responses.

Before or during the Hearing, the Board of Directors shall consider and the District shall respond in writing to, any timely written objections. The Board of Directors may adjourn the Hearing to another date if necessary to respond to comments received after the agenda is posted for the meeting at which the Hearing occurs. The District's responses shall explain the substantive basis for retaining or altering the proposed fee, charge, or assessment in response to written objections, including any reasons to reject requested amendments.

VI. — Board Determinations.

The Board of Directors, in exercising its legislative discretion, shall determine whether:

- A. The written objections and the District's response warrant clarifications to the proposed fee, charge, or assessment.
- B. To reduce the proposed fee, charge or assessment.
- C. To further review the proposed fee, charge, or assessment before determining whether clarification or reduction is needed.
- D. To proceed with the Hearing, to continue it, or to abandon the proposal.

SECTION 3. CEQA. The District Board finds that adoption of this Ordinance is exempt from CEQA because: (i) it is not a project within the meaning of Public Resources Code, section 21065 because it has no potential to alter the physical environment; (ii) and pursuant to CEQA Guidelines section 15061(b)(3), the so-called "common sense" exemption, for this same reason.

SECTION 4. Severability. If any section of this Ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether any particular section is held invalid or unconstitutional.

SECTION 5. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Secretary shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this 13th day of January, 2025, by the following vote:

AYES: Directors Glaser, Johnson, Newquist, and Ohlmann

NOES: None

ABSENT: Director Barrett

ABSTAINED: None



Ellwood T. Barrett II
President
Montecito Sanitary District

ATTEST:



Diantha Glaser
Secretary
Montecito Sanitary District