



# MONTARA WATER AND SANITARY DISTRICT AGENDA

For Regular Meeting Of: **December 2, 2021**

TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager

**SUBJECT: Review and Possible Action Concerning Amendments to the District's Code Relating to Accessory Dwelling Units and the Subdivision Map Act**

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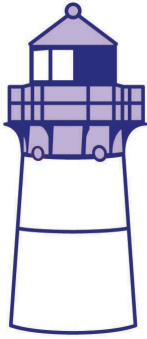
Staff recommends that the Board adopt certain amendments to the District's Code to reflect recent changes in the law pertaining to Accessory Dwelling Units (ADUs) and the Subdivision Map Act (SB9 &10). Attached is the draft Ordinance containing proposed revisions to the District's Sewer and Water Code and Master Fee Schedule, and represents a collaborative effort between the District's General Manager, Water Engineer, Sewer Engineer, Finance Advisor and General Counsel.

The following summarizes the three main subject areas of the proposed changes:

- Updates and clarifies definitions, permitting, connection and fee requirements for ADUs consistent with recently amended County zoning regulations and state law
- Updates and clarifies definitions, permitting, connection and metering requirements for multi-unit residential developments, mixed-use residential/commercial developments and others such as SB 9 urban lot splits consistent with state law
- Clarifies that the main frontage to serve a parcel be located entirely within public right of way
- Updates and clarifies Master Fee Schedule so that certain fee categories correspond with the proposed Code revisions and also accurately reflect that ADUs on existing lots are consistent with the state ADU law, which requires that connection fees and capacity charges be proportionate to the burden ADUs place on the District's sewerage and water systems.

## RECOMMENDATION:

Open the public hearing, consider relevant testimony, close the public hearing and adopt *Ordinance No. \_\_\_\_\_, An Ordinance Amending Sections 3-1.100, 3-5.400, 3.9-100, 3-9.500, 3-10.100 Through 3-10.400, 5- 2.100, 5-3.100, 5-3.103, 5-4.102, 5-4.105 And 5-4.202 Of, And Adding Sections 3-10.500 And 5-3.105 To, The Montara Water And Sanitary District Code Relating To Sewerage*



# **MONTARA WATER AND SANITARY DISTRICT AGENDA**

For Regular Meeting Of: **December 2, 2021**

TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager

*Service Definitions, Separate Side Sewer Connections, Sewer Connection Permits And Fees, Accessory Dwelling Units, Water Service Definitions, Applications, Required Connections, Individual Metering, Multiple Service And Main Frontage Requirements; And Revising Corresponding Master Fee Schedule Categories*

Attachment:

Proposed Ordinance

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE AMENDING SECTIONS 3-1.100, 3-5.400, 3.9-100, 3-9.500, 3-10.100 THROUGH 3-10.400, 5- 2.100, 5-3.100, 5-3.103, 5-4.102, 5-4.105 AND 5-4.202 OF, AND ADDING SECTIONS 3-10.500 AND 5-3.105 TO, THE MONTARA WATER AND SANITARY DISTRICT CODE RELATING TO SEWERAGE SERVICE DEFINITIONS, SEPARATE SIDE SEWER CONNECTIONS, SEWER CONNECTION PERMITS AND FEES, ACCESSORY DWELLING UNITS, WATER SERVICE DEFINITIONS, APPLICATIONS, REQUIRED CONNECTIONS, INDIVIDUAL METERING, MULTIPLE SERVICE AND MAIN FRONTAGE REQUIREMENTS; AND REVISING CORRESPONDING MASTER FEE SCHEDULE CATEGORIES**

**THE BOARD OF THE MONTARA WATER AND SANITARY DISTRICT, A PUBLIC AGENCY IN THE COUNTY OF SAN MATEO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

Section 1. The following sections of the Montara Water and Sanitary District Sewer Code are hereby amended or added to read in their entirety, unless otherwise indicated:

**CHAPTER III.**

**Article 1. Definitions**

**3-1.100. Definitions.** *(Only the following definitions are amended; all other definitions remain the same)*

n) "Master Fee Schedule" means a schedule established by Ordinance duly adopted after noticed public hearing annually, or more frequently as the Board may determine, setting forth those fees established pursuant to Articles 9 and 10 of Chapter III and Article 2 of Chapter IV of this Code; provided, that if no such schedule is adopted, or if any fee is not included in any such schedule or in effect prior to adoption of the schedule or adoption thereof omitting any fee shall remain in full force and effect as to such omitted fees or fee; except for fees in the nature of fines or penalties that are included in this Code.

o) "Multiple Family Unit" means any residence, habitation or other structure comprised of two or more Single Family Units, including but not limited to Accessory Dwelling Units, duplexes, townhomes and condominiums; provided, that each Single Family Unit thereof shall be deemed to have a separate, individual connection to the Public Sewer irrespective of the mode of connection thereto of the structure or structures consisting of the Multiple Family Unit.

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p) "Other Use Unit" means all uses of the Public Sewer other than Multiple Family Units and Single Family Units, including but not limited to, commercial, industrial, institutional and public uses; provided that each Other Use Unit thereof shall be deemed to have a separate, individual connection to the Public Sewer irrespective of the mode of connection thereto of the structure or structures consisting of the Other Use Unit.

y) "Accessory Dwelling Unit - Attached" means a dwelling unit that is built as an additional to, extension of, or within the Single Family Unit located on a Parcel, which dwelling unit conforms to the requirements of Government Code Section 65852.2 as set forth in Chapters 22.5 and 22.5.1 (Accessory Dwelling Units and Accessory Dwelling Units – Coastal Zone) of the Zoning Regulations of the County of San Mateo, as said chapter may from time to time be amended, revised, or superseded, and which Single Family Unit may be served by a properly functioning Side Sewer.

ii) "Accessory Dwelling Unit-Detached" means a dwelling unit that is an independent structure, entirely separated from the structure of a Single Family Unit on a Parcel, which dwelling unit conforms to the requirements of Government Code Section 65852.2 as set forth in Chapters 22.5 and 22.5.1 (Accessory Dwelling Units and Accessory Dwelling Units – Coastal Zone) of the Zoning Regulations of the County of San Mateo, as said chapter may from time to time be amended, revised or superseded. Accessory Dwelling Units constructed within, or as an extension of an existing detached structure other than the primary residence are considered detached accessory dwelling units; provided that an Accessory Dwelling Unit-Detached does not include any structure situated on a Parcel: (i) capable of being divided such that the structure may be converted into a Single Family Unit, or (ii) adjacent to the Parcel on which the existing main Single Family Unit is located and under common ownership with the latter parcel.

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*The following definition is added:*

(iii) “Accessory Dwelling Unit” means a dwelling unit located or proposed to be located on a lot which contains, or will contain, a primary residence. Accessory dwelling units may be detached from or attached to the primary residence on the property. Accessory dwelling units may also be (1) efficiency units, as defined in Section 17958.1 of the California Health and Safety Code, or (2) manufactured homes, as defined in Section 18007 of the California Health and Safety Code. Accessory dwelling units are “accessory dwelling units” as that term is used in Government Code Section 65852.2. An accessory dwelling unit includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code or a manufactured home as defined in Section 18007 of the Health and Safety code. A “second unit” or “secondary unit” is an accessory dwelling unit. Accessory dwelling units are not “accessory buildings” as defined in Section 6102.19. Any secondary structure that provides independent facilities for living; sleeping; eating; cooking; and sanitation, may be considered an accessory dwelling unit, under the requirements of the Chapters 22.5 and 22.5.1 (Accessory Dwelling Units and Accessory Dwelling Units – Coastal Zone) of the Zoning Regulations of the County of San Mateo as said chapter may from time to time be amended, revised or superseded.

**Article 5. Building Sewers, Lateral Sewers and Connections**

**3-5.400. Separate Side Sewers.** A separate Side Sewer shall be constructed for each Single Family Unit, or each Multiple Family Unit or Other Use Unit as may be determined by the District’s Sewer Engineer. In the event a building is to be constructed to serve other than residential purposes, a separate Side Sewer shall be constructed for each Single Family Unit equivalent therein.

**Article 9. Permits and Fees**

**3.9-100. Permit Required.** No authorized Person shall uncover, make any connection with or opening into, use, alter, or disturb any Public Sewer or

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appurtenances, perform any work on any Lateral or Building Sewer, or add any Fixture Units to or within an existing building or other structure or any portion thereof, without obtaining a Permit from the District and paying all required fees and charges.

Any Person heretofore issued a valid Permit for connection of an existing Single Family Unit or Multiple Family Use Unit to a main Sewer and who has constructed or created, or desires to construct or create two or more separate residential units, eligible to be sold separately, shall apply for an amended Permit or a new Permit, as determined by the District's Manager in his or her sole discretion, and shall be subject to all conditions and requirements of this Code and pay all applicable fees.

**3-9.500. Fees: Building Sewer Connection Charge.** *(Only subdivision (a) is amended; subdivisions (b) and (c) remain the same)*

**(a) Connection Fee Established.** The fee for connection to the District's Sewage Works of a Single Family Unit, Multiple Family Unit, or Other Use Unit shall be set forth in the Master Fee Schedule. The fee chargeable for a Single Family Unit shall be established irrespective of whether the number of Fixture Units proposed to be installed is less than twenty-five (25), plus an additional amount equal to one twenty-fifth (1/25<sup>th</sup>) of the fee chargeable for a Single Family Unit for each Fixture Unit over twenty-five (25). The fee chargeable for Multiple Family Units shall be calculated by aggregating the Single Family Unit charge for the Single Family Units within each Multiple Family Unit. The fee for Other Use Units shall be based upon a determination by the District Engineer of the equivalent number of Single Family Units represented by the Sewage flow and pollutant loading strength and characteristics of such Other Use Unit which number shall then be multiplied by the connection charge established for a Single Family Unit to determine the fee for the Other Use Unit.

The fee chargeable for the addition of Fixture Units to, or within, an existing building, structure, or portion thereof, shall be an amount equal to one twenty-fifth (1/25<sup>th</sup>) of the fee chargeable for a Single Family Unit for each Fixture Unit and

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shall be payable irrespective of the number of Fixture Units installed in the existing building, structure, or portion thereof pursuant to any prior Permit.

The fee for Accessory Dwelling Units-Attached and Accessory Dwelling Units-Detached shall be established pursuant to Section 3-10.200.

**Article 10. Accessory Dwelling Unit Regulations**

**3-10.100. Permit Required.** Any Person heretofore issued a valid Permit for connection of an existing Single Family Unit or Multiple Family Use Unit to a main Sewer and who has constructed or desires to construct an Accessory Dwelling Unit shall apply for an Accessory Dwelling Unit Permit and pay the applicable fees. Permits which were issued for connection of the existing main Single Family Unit or Multiple Family Use Unit of the Parcel upon which the Accessory Dwelling Unit is to be constructed shall, for an Accessory Dwelling Unit, be amended to include the Fixture Units pertaining to the Accessory Dwelling Unit. The determination of whether an Accessory Dwelling Unit shall be connected to the District's Sewage Works by a Side Sewer separate and apart from the Side Sewer serving the existing Single Family Unit or Multiple Family Use Unit, or by connection thereto, shall be made by the District Engineer; provided that no separate connection may be required for qualifying Accessory Dwelling Units under Government Code § 65852.2(e)(1)(A), as may be amended, upon proper and official verification from the County of San Mateo that the proposed qualifying Accessory Dwelling Unit conforms to its requirements. In addition to the provisions of Section 3-10.400, the provisions of Article III of this Chapter, including Section 3-3.600, the provisions of Article V of this Chapter, including Section 3-5.800 relating to backflow prevention devices, shall govern the issuance of a Permit for an Accessory Dwelling Unit, as applicable.

**3-10.200. Sewer Connection Fees.** Sewer Connection Fees for Accessory Dwelling Units-Attached-and Accessory Dwelling Units-Detached shall be set forth in the Master Fee Schedule. Said Schedule shall establish the fee for each Fixture Unit pertaining the Accessory Dwelling Unit, whether Attached or Detached, at an

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amount equal to one twenty-fifth (1/25<sup>th</sup>) of the fee chargeable for a Single Family Unit established pursuant to Section 3- 9.500 (a) and which is proportionate to the burden placed on the District's system. The fee established by this section is not chargeable to qualifying Accessory Dwelling Units under Government Code § 65852.2(e)(1)(A), as may be amended, upon proper and official verification from the County of San Mateo that the proposed qualifying Accessory Dwelling Unit conforms to its requirements. The fee established pursuant to this section shall be chargeable irrespective of the number of Fixture Units installed in the existing main Single Family Unit or Multiple Family Unit on the Parcel upon which the Accessory Dwelling Unit is to be constructed.

**3-10.300. Sewer Service Charges.** Sewer Service Charges for Accessory Dwelling Units-Attached or -Detached shall be imposed and collected pursuant to the provisions of Chapter 4 of the District Code and applicable policies, rules, and regulations.

**3-10.400. Application and Permit Issuance Procedure.** Applications for connection of an Accessory Dwelling Unit-Attached or -Detached to the District's Sewage Works shall be made only by the owner of the Parcel for which such Permit is required, or his or her agent pursuant to written authorization. Application shall be made on forms provided by the District. The provisions of Article 9 of this Chapter shall govern the issuance of Permits for Accessory Dwelling Units; provided, that with respect to Permits for Accessory Dwelling Units-Attached, the Permit issued for the connection of the existing main Single Family Unit or Multiple Family Unit may be amended to include provision for the Accessory Dwelling Unit-Attached.

The following section is added:



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**3-10.500. Sewer Connection for New Construction.** Accessory Dwelling Units built in connection with new construction shall be governed by Article 9 of this Chapter.

Section 2. The following sections of the Montara Water and Sanitary District Water Code are amended or added to read in their entirety as follows:

**Chapter V**

**Article 2. Definitions**

**Section 5- 2.100. Definitions: General**

The definitions in this Article, and in Chapter III, Article 1 to the extent applicable, shall be used to interpret this Chapter, unless otherwise apparent from the context.

**Article 3. Commencement of Service Division**

**1. Application for Service**

**5-3.100. Commencement of Service: General**

(a) Each Person desiring to initiate Water Service or change an existing Water Service shall complete an application form, pay required fees and deposits and comply with the conditions set forth herein.

(b) Each Single-Family Dwelling Unit shall be served through at least one water meter of at least 5/8-3/4" size and such additional meters as the Premises' owner may request or as is determined by the District's Water System Engineer in accordance with this Code.

(c) Each Multiple Family Dwelling Unit shall be served through at least one water meter of at least 5/8"-3/4" size and such additional meters as the Premises' owner may request or as is determined by the District's Water System Engineer in accordance with this Code.

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(d) Each Other Use Unit, including mixed-use residential, industrial and/or commercial units, shall be served through at least one water meter of at least 5/8"-3/4" size and such additional meters as the Premises' owner may request or as is determined by the District's Water System Engineer in accordance with this Code.

**5-3.103. Required Connections.**

Subject to the requirements of any moratorium upon Service Connections, water shortage emergency, drought or other conditions limiting the District's available water supply as determined by the Board, Premises located within the urban area (hereinafter defined), that are capable of being served by the District's water system shall be connected to that system for permanent Domestic Service. Irrespective of location within or outside of the urban area, Premises that are capable of being served by the District's water system shall be connected to that system for Fire Protection Service.

Premises shall be deemed "capable of being served by the District's water system" if a District water main is located two hundred fifty (250) feet or less measured at ground level from any point on the property line of the Parcel to be served by the main, taking into consideration that a main extension may be necessary to provide water service to the Premises. "Urban area" means the area or areas delineated as such by the Urban/Rural Boundary on land use plan maps adopted by the Board of Supervisors of the County of San Mateo and approved by the California Coastal Commission as a part of the San Mateo County Local Coastal Program pursuant to the California Coastal Act of 1976.

A separate service connection and meter shall be required, or an existing meter replaced by a meter of a different size on a Customer's request or when the District's Water System Engineer determines that increases in water demand have occurred or will occur due to changes affecting the amount of capacity needed for the Premises. In making said determination, factors affecting the capacity needed to meet the increases in water demand will be considered and evaluated including, but not limited to: 1) Addition of an Accessory Dwelling Unit(s) determined to

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exceed the capacity of the existing meter, in accordance with Chapter III, Article 10 of this Code; 2) addition of plumbing fixture units, determined by the District's Water System Engineer to exceed the capacity of the existing meter, or in other situations through construction, conversion or expansion of the primary residence or accessory structure, or through the construction, conversion or creation of two or more separate residential units on a Parcel eligible to be sold separately; 3) alternate uses of the Premises, which the District's Water System Engineer determines warrant the installation of a larger water meter.

*The following section is added:*

**5-3.105 Individual Meter Requirements.**

In accordance with California Water Code Sections 535, 537, 537.1, or when, in the opinion of the District Water System Engineer, it would be in the best interest of the District to require individual meters to accurately measure water use or to quantify water usage by type of application, rather than a single or master meter, for water service to a Customer, the District's Water System Engineer shall be authorized to require individual meters for such service, including but not limited to, each newly constructed Multi-Family Unit, structure or development, or newly constructed mixed-use residential and commercial unit, structure or development.

**Article 4. Conditions of Service**

**Division 1. General**

**5-4.102. Main Frontage Required**

Permanent Water Service shall not be provided unless a District water main of adequate size extends across the entire frontage of the Premises to be served and is located entirely within the public right of way or unless a limited Services agreement is approved by the District Manager.

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**5-4.105. Multiple Service to One Property**

An Applicant may apply for as many Service Connections to Applicant’s Premises as reasonably required, or as is determined to be required by the District’s Water System Engineer in accordance with this Code; provided, that the Applicant meets the requirements concerning potential cross- connections.

**Division 2. Extension of Facilities**

**5-4.202. Special Contracts**

**(a)** When a District water main is not contiguous to the entire frontage of the Applicant's Premises and not located entirely within the public right of way, the District Manager may enter into a “Limited Service Agreement” in lieu of requiring a Main Extension.

Section 3. The following categories of the Master Fee Schedule are hereby removed:

Fixture Unit Charge for additional Fixture Units within an existing building, structure, or portion thereof (MWSD Code §3-9.500)	\$538.50
Fixture Unit Charge for Accessory Dwelling Units (MWSD Code §3-10.200)	\$701.00
Accessory Dwelling Unit not within the existing space of a single-family residence or accessory structure – Detached Studio Unit (10 fixture units) connection fee: (MWSD Code §3-10.200)	\$10,770.00

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Accessory Dwelling Unit not within the existing space of a single-family residence or accessory structure – Detached One Bedroom Unit (11 fixture units): (MWSD Code §3-10.200)	\$11,847.00
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Section 4. Notice was published twice in the Half Moon Bay Review, a newspaper of general circulation within the District, giving notice of a public hearing to take place on December 2, 2021 to consider adoption of certain amendments to the District's Code of Regulations.

Section 5. All ordinances or Code provisions or portions thereof in conflict herewith shall be, and hereby are repealed to the extent of such conflict; provided that the District's Master Fee Schedule as set forth in *Ordinance No. \_\_*, *Ordinance of the Montara Water and Sanitary District Restating and Amending Master Fee Schedule*, adopted December 2, 2021, is hereby amended to amend its provisions as set forth in Section 3 of this Ordinance.

Section 6. Upon adoption of this Ordinance shall be entered in the minutes of the Board and posted for one week in three (3) public places in the District and shall become effective immediately upon expiration of one week following said posting.

\_\_\_\_\_  
President, Montara Water and Sanitary District

COUNTERSIGNED:

\_\_\_\_\_  
Secretary, Montara Water and Sanitary District

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I HEREBY CERTIFY that the foregoing Ordinance No. \_\_\_\_ was duly and regularly adopted and passed by the Board of the Montara Water and Sanitary District, San Mateo County, California, at a Regular meeting thereof held on the 2<sup>nd</sup> day of December, 2021 by the following vote:

AYES, Directors

NOES, Directors:

ABSENT, Directors:

\_\_\_\_\_  
Secretary, Montara Water and Sanitary District