Costa Mesa Sanitary District

Operations Code

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OPERATIONS CODE

Title 1

Chapter 1.01- General Provisions

Section 1.01.010. Authority. The Costa Mesa Sanitary District was established pursuant to the authority of Health and Safety Code Section 6400 et seq. This Operations Code, and any amendments thereto, are adopted as an ordinance/general regulation pursuant to the authority provided by Health and Safety Code Section 6490. *(Ord. 30, 1999)*

Section 1.01.020. Ordinances. Pursuant to the authority of Health and Safety Code Sections 6522.1-6523 the terms "general regulation" and "ordinance" shall be synonymous. *(Ord. 30, 1999)*

Section 1.01.030. Effect. The intent of this ordinance is to codify in a comprehensive manner all existing District regulations that pertain to the ongoing operation of the District so that District staff and the public shall have a useful reference for the District's laws. This Operations Code does not specifically repeal any previous ordinance. *(Ord. 30, 1999)*

Chapter 1.02 - General Penalty

Section 1.02.010. Penalty. Any person, firm, or corporation violating the penal provisions of this ordinance shall be guilty of a misdemeanor and punishable by a fine of up to one-thousand dollars per day and/or up to six months in jail. *(Ord. 28, 1997)*

Chapter 1.03 - Citation Authority

Section 1.03.010. Authority Of Public Officers And Employees To Make Arrests. The following designated persons shall have the power to arrest persons for misdemeanor violations of the District's General Regulations whenever the officer or employee has reasonable cause to believe that the person has committed the offense in his or her presence: Any person designated as a District Ordinance Enforcement Officer. *(Ord. 28, 1997)*

Section 1.03.020. Citation Procedure. (a) If any person is arrested for misdemeanor violation of this title, and such person is not taken before a magistrate as is more fully set forth in the California Penal Code Section 853.6 or successor statue, the arresting officer shall prepare in triplicate a written notice to appear in court containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.

(b) The time specified in the notice to appear shall not be less than ten days after such arrest.

(c) The place specified in the notice to appear shall be either:

(1) Before a judge of the municipal court in the judicial district in which the offense is alleged to have been committed; or

(2) Before an officer authorized to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, must give his /her written promise to appear in court by signing the triplicate notice, which shall be retained by the officer. The officer may require the arrested person, if the arrested person has no satisfactory identification, to provide a fingerprint in accordance with the procedures set forth in the Penal Code. Such print shall not be used to create a data base.

(e) The officer shall, as soon as practicable, file a duplicate notice with the magistrate specified in such notice. The defendant may, prior to the date upon which the defendant promised to appear in court, deposit with the magistrate the amount of bail set by such magistrate. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited and may at his/her discretion order that no further proceedings shall be had in such case. Upon making of such order that no further proceedings be had, sums deposited as bail shall forthwith be paid in the county treasury for distribution as provided by Section 1463 of the California Penal Code.

(f) A warrant shall not be issued on such charge for the arrest of a person who pursuant to the provisions of this chapter has given written promise to appear in court unless and until the person has violated such promise, or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

(g) As provided in Penal Code Section 853.7, every person willfully violating his/her written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which the person was originally arrested.

(h) In accordance with Penal Code Section 853.8, when a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in subsection (c) of this section, the magistrate shall issue and have delivered for execution a warrant for the person's arrest within twenty days after the person's failure to appear as promised. *(Ord. 28, 1997)*

Section 1.03.030. <u>Custodial Arrests Not Permitted</u>. Except for citation arrests provided for in Section 1.03.020 above, District personnel shall not make custodial arrests. *(Ord. 30, 1999)*

Chapter 1.04 - General Policies

Section 1.04.010. Sexual Harassment. Sexual harassment by any Director or employee shall not be tolerated. The Board considers sexual harassment to be a major offense which may result in disciplinary action or dismissal of the offending employee.

An employee who feels that he/she is being harassed is strongly encouraged to immediately report such incident to the immediate supervisor of the accused employee or to the General Manager without fear of reprisal. If a supervisor is so notified, the supervisor shall relay such information to the General Manager who will assist in the investigation and resolution of complaints. The General Manager may, in his or her discretion, assign the investigation of the alleged misconduct to an outside party such as an attorney or law firm experienced in such matters. If the General Manager is the accused harasser, the employee or supervisor should report such incident to the Board President. Thereafter, the Board President, at the next meeting of the Board, shall report the fact and nature of the allegation(s) to the entire Board. Depending on the nature of the allegation(s) and the outcome of the investigation, the Board shall take all appropriate remedial measures.

In the case of a Director harassing an employee, the General Manager should be notified, so that he/she can then notify the President of the Board. Thereafter, the President, at the next meeting of the Board, shall report the fact and nature of allegation(s) to the entire Board. The Board shall assign the investigation of the alleged misconduct to an outside party.

If the Director charged with sexual harassment is the President of the Board, the General Manager shall report the fact and nature of the allegation(s) to the entire Board at its next meeting.

If appropriate a closed session may be utilized. Outside counsel may be retained to conduct the investigation.

If an allegation of sexual harassment against a Director is investigated and found to the supported, the Board reserves the right to take such remedial action as is appropriate under all of the circumstances, including, if warranted, initiating an action for recall of such Director. The Directors agree that an accusation of sexual harassment against any one of them must be investigated. It is further agreed that such an investigation is not an invasion of their right of privacy. *(Ord. 30, 1999)*

Section 1.04.020. Nondiscrimination. The District shall not unlawfully discriminate against qualified employees or job applicants on the basis of sex, race, color, religious creed, national origin, ancestry, age over 40, marital status, physical or mental disability, Vietnam era veteran status, or sexual orientation.

Equal opportunity shall be provided to all qualified employees and applicants in every aspect of personnel policy and practice. The District shall not discriminate against physically or mentally disabled person who, with reasonable accommodation, can perform the essential function of the job in question.

All employees are expected to carry out their responsibilities in a manner that is free from discriminatory statements or conduct. *(Ord. 30, 1999)*

Section 1.04.030. Reasonable Accommodation-Americans with Disabilities Act. Pursuant to the Americans with Disabilities Act, employers have a duty to reasonably accommodate employees and job applicants with known disabilities. This accommodation is not required for individuals who are not otherwise qualified for the job nor is accommodation generally required until the person with the disability requests it. *(Ord. 30, 1999)*

Chapter 1.05 - Claims Procedure

Section 1.05.010 **Statutory Authority**. The provisions of this Chapter recognize that the general claims procedures applicable to local public agencies, including this District, are governed by the provisions of Chapter 1 of Division 3.6 of the Government Code of the state, commencing with Section 900 and following. *(Ord. 39, 2001)*

Section 1.05.020 **Special Claims Procedure for Contracts and Other Claims.** (a) Pursuant to the authority contained in Section 935 of the Government Code of the state, the following claims procedures are established for those claims against the District for money or damages not now governed by state or local laws.

(b) Notwithstanding the exemptions set forth in Section 905 of the Government Code of the state, all claims against the District for damages or money, when a procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.2 of the Government Code of the state. Such claims shall further be subject to the provisions of Section 945.4 of the Government Code of the state relating to the prohibition of suits in the absence of the presentation of claims and action thereon by the Board. *(Ord. 39, 2001)*

Section 1.05.030 **Filing**. All claims or demand against the District shall be filed with the District Clerk and shall be presented by the District Clerk to the Board for approval or rejection, whether in whole or in part, if such presentation is required by law. *(Ord. 39, 2001)*

Section 1.05.040 **Processing**. For the purposes of claims processing, the Clerk of the District is hereby designated to make determinations regarding the sufficiency and timeliness of any claim filed with the District. *(Ord. 50, 2005)*

Chapter 1.06

Administrative Citations

Section 1.06.010. Applicability.

(a) This chapter subjects any violation of the provisions of this Operations Code to administrative fines.

(b) This chapter establishes the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review of the administrative fines pursuant to Government Code Section 53069.4.

(c) The issuance of an administrative citation under this chapter is solely at the discretion of the Enforcement Official and is one option the Costa Mesa Sanitary District has to address violations of this code. The procedures established in this chapter shall supplement and be in addition to any criminal, civil or other remedy established by law or under the provisions of this code to address violations of this Operations Code or violations of any other Costa Mesa Sanitary District ordinance. Issuance of an administrative citation shall be cumulative to, and shall not limit or be deemed a waiver of, the use of any other remedy.

(d) The purpose of issuing administrative citations pursuant to this chapter is to encourage compliance with the provisions of this code.

(e) This chapter is intended to impose strict administrative liability on responsible parties for violations of this code.

Section 1.06.020. Definitions.

"Correction Condition" shall mean a code violation that pertains to a continuing plumbing, sewer, sanitary, or similar structural or zoning violation that does not create an immediate danger to health or safety.

"Enforcement Official" shall mean any officer, employee, agent, or independent contractor with authority to enforce the Operations Code of the Costa Mesa Sanitary District or any other code or ordinance adopted by the Costa Mesa Sanitary District.

"Responsible Party" shall mean any of the following:

(1) A person who causes a code violation to occur.

(2) A person who maintains or allows a code violation to continue by his, her or its action or failure to act.

(3) A person whose agent, employee or independent contractor causes a code violation by its action or failure to act.

(4) A person who is the owner of, lessee or sublessee with a current right of possession of, real property where a property-related code violation occurs.

(5) The owner, operator or other person in charge of a business where a code violation occurs.

(6) A person who is the beneficiary under a deed of trust for property where a property-related code violation exists.

"Person" shall mean a natural person, legal entity, business, corporation, trust, or other entity and shall also include the owners, majority shareholders, corporate officers, trustees and general partners of any legal entity, business, corporation, trust or other entity.

Section 1.06.030. <u>Administrative Citation Generally</u>.

(a) Issuance. An Enforcement Official, upon making a determination that any provision of this Operations Code or any other Costa Mesa Sanitary District Ordinance has been violated, has authority to issue an administrative citation to a responsible party or parties for the violation. An Enforcement Official may issue an administrative citation for a violation that is not committed in the Enforcement Official's presence if the Enforcement Official has determined that the responsible party committed a code violation.

(b) Content. An administrative citation shall contain the following information:

(1) Name of the responsible party.

(2) Date of violation.

(3) Code section violated.

(4) Address or other location where the violation occurred.

(5) Description of the violation.

(6) Amount of the fine.

(7) Procedure to pay the fine.

(8) Warning that a failure to make a timely payment of the fine will result in a late payment penalty.

(9) Description of the procedure for requesting an administrative review to contest the administrative citation.

(10) Description of the procedure for requesting a waiver of the fine deposit.

(11) Date the citation is issued.

(12) Signature of the Enforcement Official issuing the citation.

(13) A notice that unpaid fines, interest and penalties are subject to the assessment and lien collection procedures of this Chapter.

(c) Service.

An administrative citation may be served by any of the following methods:

(1) Personal Service. An Enforcement Official may personally serve the citation on the responsible party. If reasonably available, the Enforcement Official should obtain the signature of the responsible party. The failure of the Enforcement Official to request or obtain the signature of the responsible party shall not invalidate the service of the administrative citation and shall not invalidate the administrative citation.

(2) Mail. An Enforcement Official may mail the administrative citation by first class mail if the responsible party is not present for personal service when the Enforcement Official determines there has been a violation. The administrative citation shall be mailed to the responsible party's address as shown on the county's last equalized assessment roll for a property-related violation, or to any address known for the responsible party for all other violations. Service by mail shall be deemed to have been completed at the time of deposit in the U.S. Mail in a fully addressed envelope, postage prepaid.

(3) Posting. An Enforcement Official may post a copy of the administrative citation on the property in a conspicuous place for a property-related violation when the responsible party resides at an unknown address. A copy of the administrative citation will also be mailed to the responsible party at the address of the property.

(4) Other manners of service. An administrative citation may be served on the responsible party in any manner provided for service of summons.

Section 1.06.040. <u>Administrative Citation Timing</u>. Except as provided in Section 1.06.050, an administrative citation may be issued immediately and without a prior warning for any violation of this Operations Code or any other District ordinance.

Section 1.06.050. <u>Administrative Citation for Continuing Plumbing, Sewer, Sanitary, or Similar Structural or Zoning Violations that Do Not Create an Immediate Hazard</u>.

(a) Applicability of this Section. This Section shall only apply to a correction condition(s).

(b) Correction Period. A responsible party shall have thirty (30) calendar days to correct or remedy a correction condition prior to the issuance of an administrative citation. A correction period longer than thirty (30) calendar days may be granted if deemed necessary by the Enforcement Official.

(c) Correction Notice. Upon discovery of a correction condition, the Enforcement Official shall issue a written correction notice to the responsible party or parties. The correction notice shall refer to the code section(s) violated and describe how that code section(s) was violated. The correction notice shall also describe the action necessary to correct the violation(s) and state the final date by which the correction must be completed, which shall not be less than thirty (30) calendar days from the date the correction notice is issued. In addition, the correction notice shall include a warning that failure to correct the violation may result in the imposition of an administrative fine and shall state the amount of the fine imposed for the violation.

(d) Procedure Upon Expiration of Correction Period. If the responsible party does not remedy the correction condition within the period set forth in the correction notice, the Enforcement Official may issue an administrative citation.

Section 1.06.060. Responsible Party's Obligations.

Within fifteen (15) calendar days from the date the administrative citation is served by any of the methods of service specified in Subsection (c) of Section 1.06.030, a responsible party shall (i) pay the fine amount designated on the administrative citation; or (ii) make a written request for an administrative hearing.

Section 1.06.070. Administrative Fine.

(a) Amount. Fines for administrative citations shall be assessed in the following amounts:

(1) A fine not exceeding Two Hundred Fifty Dollars ($250.00) for a first violation, except that a first violation of District Operations Code Section 7.01.060, pertaining to the Placement of Trash Containers, shall be subject to a fine not exceeding Seventy Five Dollars ($75.00);

(2) A fine not exceeding Five Hundred Dollars ($500.00) for a second violation of the same ordinance or permit within one year;

(3) A fine not exceeding Nine Hundred Fifty Dollars ($950.00) for each additional violation of the same ordinance or permit within one year.

(b) Continuing Violation. Each and every day during any portion of which any ordinance violation is committed, continued, maintained or permitted shall constitute a separate offense.

(c) Payments. If the responsible party does not make a timely request for a hearing, he, she or it must pay the administrative fine directly to the Costa Mesa Sanitary District within fifteen (15) calendar days from the date the administrative citation is issued. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the District.

(d) No Waiver. Under no circumstances shall the payment of the administrative fine constitute a waiver of the responsibly party's right to a hearing. Therefore, a responsible party may pay the administrative fine within the fifteen (15) calendar day period and also obtain a hearing to protest the imposition of the administrative fine, provided that the responsible party makes a timely request for a hearing.

(e) Obligation to Correct Violation. Nothing in this chapter shall be interpreted to mean that because a responsible party has paid the administrative fine he, she or it is not required to correct the ordinance violation. If the responsible party fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this chapter.

Section 1.06.080. <u>Administrative hearing</u>.

(a) Purpose. It is the purpose and intent of the Board of Directors to afford due process of law to any person who is issued an administrative citation.

(b) Request for Hearing. Within fifteen (15) calendar days from the date the administrative citation is served, the responsibly party must make a written request for a hearing, together with an advanced deposit of the fine. Any administrative citation fine which has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

(c) Hearing Officer.

1. The General Manager shall serve as the Hearing Officer or may appoint a person or persons who shall preside at the hearing and hear all facts and testimony presented and deemed appropriate ("Hearing Officer").

2. The employment, performance, evaluation, compensation and benefits of the Hearing Officer, if any, shall not be directly or indirectly conditioned upon the amount of the administrative citation fines upheld by the Hearing Officer.

3. Any person designated to serve as a Hearing Officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified pursuant to Code of Civil Procedure Section 170.1. The responsible party may challenge the Hearing Officer's impartiality by filing a statement with the General Manager objecting to the Hearing before the Hearing Officer and setting forth the grounds for disqualification.

(d) Administrative Hearing Procedures.

1. No hearing to contest an administrative citation before a Hearing Officer shall be held unless and until a request for hearing form has been completed and submitted and the fine has been deposited in advance. The fine deposit may be waived by the General Manager upon a showing of financial hardship.

2. The administrative citation and any additional documents submitted by the Enforcement Official shall constitute prima facie evidence of the respective facts contained in those documents and the Enforcement Official shall not be required to attend the administrative hearing but may attend the hearing in his or her discretion.

(e) Administrative Order.

1. Within fifteen (15) calendar days of the conclusion of the hearing, the Hearing Officer shall provide the responsible party with a decision in writing ("administrative order"). The Hearing Officer shall provide the responsible party with the administrative order by personal service or by registered or certified mail to the responsible party's last known address.

2. The administrative order shall contain the Hearing Officer's findings of fact and conclusions and the procedure described in Section 1.06.090 for seeking judicial review.

3. A decision in favor of the responsible party shall constitute a dismissal of the administrative citation. The District shall return any monies paid by the responsible party towards the dismissed administrative citation.

4. The Hearing Officer's administrative order is final.

(f) Failure to Attend Administrative Hearing.

1. Waiver of Right to Hearing. The responsible party's failure to appear at a hearing shall constitute a waiver of the right to a hearing and shall be presumed an admission of guilt to the code violation(s) indicated on the administrative citation.

2. Good Cause. Upon a showing of good cause by the responsible party, the Hearing Officer may excuse the responsible party's failure to appear at the hearing and reschedule the hearing. Under no circumstances shall the hearing be rescheduled more than once unless the responsible party pays a deposit in the amount of the administrative fine. Nothing in this subsection shall be interpreted to mean the responsible party is excused from the requirement of paying the administrative fine or appearing at a hearing.

Section 1.06.090. Judicial review.

If an administrative order is rendered in favor of the District, the responsible party may seek judicial review of the administrative order in the Orange County Superior Court, Harbor Justice Center, by doing one of the following:

1. Appeal the administrative order pursuant to California Government Code Section 53069.4 within twenty (20) calendar days after service of the administrative order. Pursuant to Section 53069.4, the appealing party shall serve a copy of the appeal notice in person or by first class mail upon the District. Appeal notices shall be sent to the District Clerk. If no appeal notice is filed within the twenty (20) calendar day period, the decision shall be deemed confirmed; or

2. File a petition for a writ of mandate pursuant to California Code of Civil Procedure Section 1094.5 et seq. within ninety (90) calendar days after service of the administrative order.

Section 1.06.100. Failure to comply.

(a) Event Defined. As used in this Section the term "event" shall mean any of the following occurrences:

1. The responsible party fails to either pay the administrative fine or request a hearing within fifteen (15) calendar days from the date the administrative citation is served.

2. The responsible party requests a hearing and fails to appear.

3. The responsible party fails to either comply with the administrative order or seek judicial review of the administrative order.

(b) Penalty Fine. The occurrence of an event may result in the District increasing the administrative fine, not to exceed the maximum amounts set forth in Section 1.06.070. ("administrative fine").

(c) Account Receivable. Upon the occurrence of an event, the District may treat the administrative fine or penalty fine, whichever is applicable, as an account receivable subject to the District's policy for delinquent accounts receivable.

(d) Misdemeanor. An event shall constitute a misdemeanor punishable by a maximum of a One Thousand Dollar ($1,000.00) fine or six (6) months in jail, or both.

Section 1.06.110. Collection of Unpaid Fines.

(a) The District, at its discretion, may pursue any and all legal and equitable remedies for the collection of unpaid fines, interest and penalties. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total fines, interest and penalties owed by a person under this chapter have been collected.

(b) The District may refuse to issue, extend, or renew any permit, license, or other approval to any person who has unpaid delinquent fines, interest, penalties, liens or assessments due under this chapter related to the permit, license, or approval.

(c) The District may suspend any permit, license, or approval issued to a person who has unpaid fines related to the permit, license, or approval totaling Five Hundred Dollars ($500.00) or more that have been delinquent for over thirty (30) calendar days. The suspension shall become effective twenty (20) calendar days after the day notice of suspension is placed in the U.S. mail, postage prepaid, addressed to the person and shall continue until the delinquency is paid in full. Continuing to operate under a suspended permit, license or approval shall be grounds for revocation of the permit, license or approval.

(d) Any violation of this chapter shall constitute a public nuisance. To compel compliance, the District may seek to abate the nuisance and collect the costs incurred by means of a nuisance abatement lien and/or special assessment against the property where a property-related violation occurred. Any unpaid delinquent civil fines, interest and penalties may be recovered as part of any such lien or special assessment against the property of the responsible party who is the owner of the property where the violation occurred.

(1) To pursue an abatement of a code violation as a nuisance and recover the costs, including any delinquent civil fines, interest and penalties as an abatement lien or special assessment, the District may take the following steps:

a. Submit to and receive from the Board of Directors a resolution certifying the amounts of the liens and special assessments sought to be collected from each property owner;

b. Request the Orange County Recorder to record a notice of any liens, or special assessments, and send the Recorder the resolution certifying the amounts;

c. Request the Orange County Tax Collector collect any special assessments certified by the Board of Directors; and

d. Take any other necessary action to enforce collection of any liens, or special assessments provided for in this chapter.

(2) The District may pursue the lien and special assessment remedies whether or not the District is pursuing any other action to terminate an ongoing code violation that was the basis for the fine.

(3) The lien or assessment shall be imposed on the date the citation for the Code violation is issued to the responsible person and becomes effective upon the recording of a Notice of Lien or Assessment by the County Recorder. This notice shall satisfy the notice requirements when an administrative citation is personally served on the responsible party. In addition, the District shall send notice by first class mail stating the date, time and location of the meeting to each property owner listed in the proposed resolution at least ten (10) days before the Board of Directors considers the resolution and certifies the amounts of the liens and special assessments.

(4) A responsible party may contest the amount and/or validity of any lien or assessment for a civil fine at the public hearing to certify the amount of the lien or assessment by the Board of Directors. Such contests shall be limited to the issue of the amount and/or validity of the lien or assessment and may not consider whether the underlying Code violation occurred. Pursuit of such a contest by a responsible party is necessary to exhaust the administrative remedies concerning a legal challenge to the validity of any such lien or assessment.

(e) The parent or legal guardian of a responsible party who is a minor shall be liable for any fines imposed upon the minor pursuant to the provisions of this chapter. Any such fines may be collected from the minor, parent or guardian.

Title 2

Chapter 2.01 – Definitions

Section 2.01.010 **Definitions.** Unless otherwise indicated, the following definitions shall apply to all provisions of this Operations Code:

A. Garbage. "Garbage", as used in this code, shall include all of the following: (a) animal, fruit, and vegetable refuse; (b) offal; (c) leaves and cuttings, trimmings from trees, shrubs and grass; (d) inorganic refuse and rubbish; (e) anything thrown away as worthless. (This definition is provided in Health and Safety Code Section 6406 as the same may be amended from time to time.) *(Ord. 30, 1999)*

B. Lateral. A sewer lateral is that entire underground pipe including the connection between the sewer main and the structural improvements on private property and shall include both the portion on private property and the portion in the public or District right of way. *(Ord. 8, 1971)*

C. Rubbish. The word "rubbish" shall include leaves, shrub trimmings, small tree branches not to exceed two (2) inches in diameter and four (4) feet in length, excelsior, wooden ware, printed matter, paper, pasteboard, paper containers, lawn clippings, rags, straw, discarded clothing, crockery, bottles, tin cans, metal vessels, and residential waste material of every character accumulated within the District except garbage or tree or shrub trimmings occasioned by the maintenance or construction of public utility lines or the activities of City crews. *(Ord. 2, 1956)*

D. Sewerage facilities. Those pipe lines, plant facilities and appurtenances constructed, maintained and operated by the District primarily for the collection of sewage and the conveyance thereof to the sewage treatment plant for the treatment of the sewage.
(Ord. 30, 1999)

E. Sewer Main shall also include the phrases "main sewer line" and "main sewer".
A sewer main is the underground pipe structure in the public or District right of way which acts as a gathering system for one or more sewer laterals. *(Ord. 8, 1971)*

F. Trash."Trash" shall mean all solid and semi-solid wastes including garbage, rubbish and trash but does not include hazardous wastes, abandoned vehicles, construction debris, medical waste, sludge and similar materials. For purposes of the regular collection of trash by District's franchisee, the items of trash may be limited to exclude tires, household appliances and other similar large items or special categories of trash. Included within the term are newspapers, glass, plastics, cardboard and other materials that are discarded but which may be recycled by District's franchisee for consideration.

(Ord. 30, 1999)

Title 3

Chapter 3.01 - Board of Directors

Section 3.01.010. Elections. The District does hereby adopt the following as its candidate regulations. Candidate's statements shall be limited to 200 words or less. Each candidate shall pay his/her own costs of candidate statements and any translations into languages other than English. *(Ord. 30, 1999)*

Section 3.010.020. Board Officers. Those certified as elected shall enter office on or after noon of the first Friday in December after the election and upon taking the oath of office. The Board shall elect a President and a Secretary from among its members. Election shall be made as soon as practicable after the results of a District election have been certified and the officers have taken their oaths of office. At that time a President and Secretary shall be elected, and a Vice-President and Assistant Secretary may also be elected. *(Reso. 96-593, 1996)*

Section 3.01.025. Board Responsibility. It shall be the responsibility of the Board to fulfill the District's mission of providing sewage collection and trash collection and related recycling activities in an efficient, dependable and economical manner. The Board shall perform its mission by adopting ordinances, resolutions, policies and by taking other action during its regular or special meetings, or to otherwise make recommendations on the same during the meeting of a standing committee. The Board is entrusted with the following specific duties:

(a) Set policy for District operation.

(b) In coordination with the Treasurer, set an annual budget and monitor spending throughout the year.

(c) Set rates for service.

(d) Ensure that the District has sufficient staff and other resources to fulfill its mission.

(e) Have a master plan for the operation of the District including a facilities replacement schedule for facilities failure or obsolescence. *(Ord. 30, 1999)*

Section 3.01.030. Compensation. Pursuant to the provisions of Health and Safety Code Section 6489, compensation is set for each day's attendance at a Board meeting, or for each day's service rendered as a Director at the request of the Board, the sum of two hundred twenty one dollars per day, not to exceed a total of six days in any calendar month. (Ord. 59, 2007)

The following meetings shall be eligible for such per diem service:

1. **Board meetings**
2. **Advisory committee meetings such as subcommittees**
3. **Approved conferences or organized educational activities**
4. **Orange County Sanitation District (OCSD) meetings**
5. **Santa Ana River Flood Protection Agency (SARFPA) meetings**
6. **Independent Special Districts of Orange County (ISDOC) meetings**
7. **Orange County Local Agency Formation Commission (LAFCO) meetings**
8. **California Special Districts Association (CSDA) meetings**
9. **California Association of Sanitation Agencies (CASA) meetings**
10. **Orange County Council of Governments (OCCOG) meetings**
11. **WACO meetings**
12. **Costa Mesa Chamber of Commerce meetings**
13. **Educational Outreach and Presentations**
14. **City of Costa Mesa Council meetings**
15. **Mesa Consolidated Water District meetings**
16. **Irvine Ranch Water District meetings**
17. **City of Newport Beach meetings**
18. **Costa Mesa Sanitary District/Mesa Consolidated Water District/Costa Mesa Liaison Committee meetings**
19. **Waste Discharge Regulation meetings (WDR)**
20. **Water Environment Association (WEF), California Water Environment Association (CWEA) and the local section Santa Ana River Basin Section (SARBS)**
21. **Solid Waste Association of North America (SWANA)**
22. **Integrated Waste Management Commission (IWMC)**

The Board member shall also be entitled to his/her reasonable expenses incident thereto. (Ord. 73, 2009)

Section 3.01.035. **Sunshine Law Compliance**. In accordance with Chapter 700 of the 2005 Statutes, the District shall comply with the Local Government Sunshine Law by attending ethics training as mandated. Daily compensation for occurrences shall be set forth in Section 3.01.030 and reimbursement for travel expenses shall be made in accordance with Section 3.01.090 as the same may be supplemented. **Expense reimbursement shall be made on District forms that show that expenses are within policy**. Board members shall provide brief reports on meetings attended at public expense at the next regular Board meeting. (Ord. 55, 2006)

Section 3.01.040. **Conflict of Interest.** (a) The District has adopted the model conflict of interest code as set forth in Regulation 18700 of the Fair Political Practice Commission and its own appendix and will review said appendix on a regular basis as required by law. The Board members and the District's officers and employees shall comply with said Code.

(b) Board members shall also not engage in inconsistent, incompatible or inimical employment. Acceptance of an office that is incompatible with another office automatically vacates the first office held.

(c) Board members shall not have a prohibited interest in any contract made by them in their official capacity. It is also prohibited to attempt to influence such a decision.

(d) Board members shall not accept any discount with a transportation company because of his/her official status. *(Reso. 95-579, 1995); (Ord. 30, 1999)*

Section 3.01.045. Alternate District Engineer

(a) District engineering work. A private civil engineer may serve as the District's Engineer and is authorized to perform civil engineering work on behalf of the District. District Engineer's proposals may be reviewed by an outside private civil engineer who shall review said proposals for appropriateness and reasonableness of cost. The Board may appoint such outside civil engineer as Alternate District Engineer. Such outside civil engineer shall report directly to the General Manager and shall submit any bill for services directly to the General Manager . Such review shall specifically be required for District's Capital Improvement Plan that is prepared on an annual basis.

(b) Private engineering work within the District boundaries. Should the District Engineer perform civil engineering work for a private client that requires District approval, the District Engineer shall not approve those plans in his capacity as District Engineer. Should engineering review be required, it shall be referred by the General Manager to the Alternate District Engineer or other civil engineer having authority to approve such plans on behalf of the District and in accordance with the procedure as described above (Ord. 68, 2008)

Section 3.010.050. Place of Regular Meetings. The Board of Directors shall meet at 628 W. 19th Street, Costa Mesa, California, unless notification is otherwise given. *(Ord. 13, 1978)* (Ord. 53, 2005)

Section 3.01.060. Time of Regular Meetings. The Board of Directors shall hold its regular meetings on the fourth Thursday of the month at 5:30 p.m. unless notification is otherwise given. The Board shall endeavor to conduct its business on its regular meeting date and if a meeting must be rescheduled, shall endeavor to schedule any specially set meetings to a later date. Nothing herein stated is meant to preclude the District from scheduling a meeting at an earlier date and/or time, provided notice has duly been given, when the same is determined to be in the District's best interests. Any person having business before the Board showing an acceptable excuse for not being present due to changed date, time or place of a meeting may request the Board to reschedule the item for a subsequent meeting. *(Ord. 65, 2008)*

Section 3.01.070. Brown Act. The provisions of the Ralph M. Brown Act shall be observed for all Board business. *(Ord. 30, 1999)*

Section 3.01.073. Parliamentary Matters. The Board may only take action at a duly authorized meeting. A motion, followed by a second, shall be the usual method to bring a matter before the Board for action. Roberts' Rules of Order may be used as a guide but shall not be binding. *(Ord. 38, 2001)*

Section 3.01.074. General Public Meeting Rules. (a) Any person desiring to address the Board shall only speak when recognized by the presiding officer. Persons should address their comments to the presiding officer and not to other Board members or staff. The Board and staff should likewise not engage in a dialogue with a member of the public without first securing the permission of the presiding officer. Cross-examination of the Board or staff is not allowed. If a speaker has questions, he should state those questions as part of his presentation. After he has completed his presentation the presiding officer shall determine if a response is required and who should respond. Alternatively, the presiding officer may direct that a staff person meet with the speaker at a later time to address the areas of inquiry.

(b) A public meeting is a limited public forum and remarks must be related to the subject matter over which the District has jurisdiction. Irrelevant speech may be ruled out of order.

(c) Time limits for speakers may be established.

(d) All speakers and the Board must preserve order and decorum and no profanity or indecorous language or personalities shall be allowed.

(e) No person shall be allowed to approach the Board dais but shall submit materials to the Board by handing those items to the District Clerk.

(f) The Board may appoint a sergeant at arms. The presiding officer may clear the meeting for disruptions to the meeting, in accordance with the Brown Act. Additionally, Penal Code Section 403 makes it a misdemeanor to willfully disrupt a public meeting. *(Ord. 74, 2009)*

Section 3.01.075. Agenda distribution. Agenda materials shall be made available to the public in accordance with the Brown Act. The District shall normally charge for copies. Notwithstanding the foregoing, the District Clerk may make copies available without charge to public officials who might have a position with another public agency that interface with the District and its functions. (Ord. 74, 2009)

Section 3.01.076. President. The President shall preside over all meetings. In his absence the Vice-President shall preside. In accordance with Health and Safety Code Section 6487, the President shall sign all contracts, deeds, releases, receipts and other documents, unless such authority has been otherwise delegated in this Code. In the President's absence, the Vice President may sign all contracts, deeds, releases, receipts and other documents.*(Ord. 30, 1999)*

Section 3.01.077. Secretary. The Secretary shall countersign all contracts, deeds, warrants, releases, receipts and other documents, unless this authority has been otherwise delegated in this Code. In his absence, the Vice-Secretary may perform those duties. *(Ord. 30, 1999)*

Section 3.01.080. Appointments. That as soon as practicable after the results of a District election have been certified and the officers have taken their oaths, other appointments to various bodies shall also be made. *(Reso. 96-593, 1996)*

Section 3.01.085. Vacancies. Vacancies on the Board shall be filled in accordance with Health and Safety Code Section 6483 and Government Code Section 1780. *(Ord. 30, 1999)*

Section 3.01.090. Conferences, Travel and Expenses.

(a) The Board of Directors recognizes the benefit derived from Directors attending out of County educational seminars, conferences, programs, political hearings and functions. No Board member shall incur such expense outside Orange County without prior Board approval.

(b) Board members are authorized to attend any meeting, conference or seminar from which the district will derive benefit within Orange County without prior Board approval and to have such expenses reimbursed, subject to the limitations provided for herein.

(c) The expenses allowed include, but are not limited to, meals, transportation, lodging, and registration fees, which are reasonable and substantiated by receipts, unless paid for directly by the District. Lodging shall not exceed the maximum group rate offered by the sponsor. Members shall also use group or government rates for transportation or shall use IRS rates. Automobile mileage shall be reimbursed at the current standard mileage rate established by the Internal Revenue Service.

(d) Board members shall present their reimbursement requests for such expenses to the Board by invoice or other suitable substantiation supported by receipts or similar proof of payment.

(e) For all reasonable meals, transportation and lodging expenses, the General Manager may reimburse the Board member's expenses, after expenses are certified by District Accountant that said expenses are eligible for reimbursements and prior to Board approval and obtaining ratification at the next regular Board meeting. Expenses not ratified by the Board of Directors will be deducted from a subsequent payment. All expense reimbursements other than meals, transportation and lodging must be submitted for Board approval prior to reimbursement.

(f) Expense reimbursements shall be in addition to the daily compensation that Board members may be entitled to pursuant to Health and Safety Code Section 6489 and Section 3.01.030 of this Code.

(g) District staff shall maintain a credit card or other account that allows for the direct payment of airline tickets, hotel rooms, registration fees and other expenses. The General Manager shall establish policies and procedures for utilization of the credit cards and/or other accounts.

(h) Nothing stated herein is meant to be a limitation on a Board member's right to attend any event at the Board member's own expense.

(i) Board members shall be cognizant of the Brown Act and any exceptions thereto whenever a quorum of the Board is present at the same location.
(Ord. 52, 2005) (Ord. 55, 2006)

Section 3.01.092. Miscellaneous expense reimbursement. The Board of Directors recognizes that Board members will incur other expenses on behalf of the District for which reimbursement may be appropriate. To substantiate that such reimbursement is appropriate, Directors should establish that the expenses were actual, reasonable and necessary in service to the District. Certain expenses for supplies may be reimbursed by substantiating that the item or a portion of the item was used for District business. Such items include, but are not limited to, toners, cartridges, paper and related material involved in electronic processing of information by facsimile, copier, email, computer and other technological devices. To be eligible for reimbursement, a District-provided form should be used, which substantiates the purchase and documents the use or a portion of the use for District business.
(Ord. 58, 2007)

Section 3.01.100. Interaction with Staff. Requests for information may be made by individual Board members and will be responded to unless the General Manager determines that it would involve an inordinate amount of time, in which case he may ask that the item be placed on the agenda for full Board action. Copies of materials prepared for one Director shall be distributed to all Directors. Board members should only direct staff to take action when done as part of Board action during a meeting. Any Board member shall have the right to have such matters placed on the agenda for discussion.
(Policy Statement 11/14/1991)

Chapter 3.02 - Officers and Employees

Section 3.02.010. General Manager. The Board may appoint a General Manger to plan, manage, and operate the District and to report to the Board. Said duties may be more fully set forth in the District's job description for said position and in any employment contract with said person which shall be kept with the District's official records. *(Reso. 92-523, 1992)*

Section 3.02.020. District Engineer. The General Manager may appoint an engineer to design various projects for the District and to render engineering advice to the General Manager. The District Engineer is authorized to approve designs as to reasonableness of public improvements for which Board approval is not required. Such discretionary authority is hereby delegated to the District Engineer for the purpose of the design immunity defense provided in Government Code 830.6 or successor statue. The approval of design extends to "as builts" which are accepted. *(Reso. 92-524, 1992) (Ord. 49, 2005)*

Section 3.02.030. District Counsel. The Board may appoint a general counsel to provide it with legal advice and render other legal services. The duties to be provided shall be set forth in said Attorney's retainer agreement. *(Ord. 30, 1999)*

Section 3.02.040. Treasurer. Pursuant to Health and Safety Code Section 6001, the District shall appoint a treasurer to be responsible for the safekeeping, investment and deposit of District monies. A surety bond shall be fixed by the Board and maintained at all times. The Board has determined that a master bond may be used that meets the requirements of Government Code Section 1481. *(Reso. 85-438, 1985)*

Section 3.02.050. Employees. The Personnel Rules of the District shall be adopted by separate resolution of the District. The Personnel Rules shall set forth the terms and conditions of the employment relationship. The only persons who are "employees" of the District are those persons who are paid through payroll. *(Ord. 70, 2008)*

Section 3.02.055. Employment Subject to Criminal History Report.

(a) The District is hereby authorized to access state and federal level summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.

(b) A person shall be *prima facie* disqualified for District employment if the person has been convicted of a felony or of a misdemeanor involving moral turpitude. As used herein, the term conviction includes pleas of guilty and *nolo contendere*. The General Manager, as personnel officer, is specifically authorized to obtain criminal history information as provided for in Section 11105 and 13300 of the Penal Code of the State of California. Applicants shall be required to submit their fingerprints and to cooperate so that the General Manager can obtain said information.

(c) An applicant who is thus *prima facie* disqualified for employment may make an appeal in writing to the General Manager. The General Manager shall consider the mitigating factors such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of the person at the time of the conviction, contributing social or environmental conditions, the nature and seriousness of the conduct, the circumstances surrounding the conduct, the position for which the person is applying and whether the conviction is unrelated to that position. The General Manager shall render a decision based on the above factors which shall be final and conclusive.

(d) The General Manager shall report to each appointee the fact of the appointee's suitability for District service. In the event the General Manager determines that the character and background of an appointee makes the appointee unsuitable for District service, the General Manager shall take appropriate action. *(Ord. 70, 2008)*

Section 3.02.060 Administrative Regulations. The General Manager is authorized to promulgate administrative regulations to supplement the Personnel Rules and to set forth other employment- related rules. (Ord. 30, 1999) (Ord. 54, 2005)

Section 3.02.070. Staff Expenses. No staff person or person other than a Board member shall incur any expense for reimbursement for travel, conferences, meetings, seminars or related matters that occur within the State of California without prior General Manager approval. No staff person or person other than a Board member shall travel out of state for conferences, meetings, seminars or related matters without prior Board approval The Board may approve recurring or ongoing expenses. *(Reso. 96-586, 1996)*

Title 4

Chapter 4.01 - Financial Provisions

Section 4.01.010. Administration of Funds. Pursuant to the authority of Health and Safety Code Section 6801, the Board has determined to administer its own funds and has done so by Resolution 85-438. The District's General Manager shall be responsible for managing District enterprise and capital funds. The treasurer shall be authorized to open and maintain accounts in institutional depositories qualifying pursuant to Government Code Sections 53530 through 53683 to administer said funds. (*Ord. 30, 1999) All transactions made by treasurer must be made available to the general manager.*

Section 4.01.020. Treasurer. The Board shall appoint a treasurer who shall post a fidelity bond in an amount as determined by the Board. The clerk shall ensure that said bond remains on file and is in effect at all times. Said bond may be a master bond. *(Reso. 85-438, 1985)*

Section 4.01.030. Warrants. In accordance with Health and Safety Code 6794, all warrants shall be approved by a resolution which sets forth the name of the payee, the fund from which paid, and the general purpose of the payment. *(Ord. 30, 1999)*

Section 4.01.040. Signatures. The signature of the Treasurer and President shall both be required on any instrument withdrawing funds from District accounts. A facsimile signature may be used for such purpose. *(Ord. 30, 1999)*

Section 4.01.050. Assessment Changes. The General Manager or his/her designee shall have the authority to make changes, corrections and cancellations on the tax roll with respect to special assessments. *(Reso. 97-603, 1997)*

Chapter 4.02 - District Investments

Section 4.02.010. District Investment Policy. Pursuant to the provisions of Government Code Section 53630 et seq. the Board shall adopt an Investment Policy Statement that shall be consistent with State law and the Board's wishes. Said investment policy shall be reviewed annually and approved at an annual meeting. The Board and an oversight committee shall further review the District's investments on at least a quarterly basis. *(Ord. 30, 1999)*

Chapter 4.03 - Financial Policies

Section 4.03.010. Summary. A summary of the District's Financial Policies includes the following principles:

(a) Operating Reserves: The District will maintain a minimum designated Reserve for Working Capital equal to 15% of its operating budget within its Solid Waste Fund and 10% of its operating budget within its Liquid Waste Fund.

(b) Fairness and Equity: All customers of the District will pay their fair, equitable, and proportionate cost of the services provided by the District.

(c) Recurring Revenue Growth: Recurring expenditure increases should not be approved which exceed recurring revenue growth. Any new or expanded programs will be required to identify new funding sources and/or off-setting reductions in expenditures.

(d) Risk Management/Retention: The District will maintain appropriate reserves for general liability claims and other programs or self insured risk retention levels to meet statutory requirements and actuarially projected needs.

(e) Long Range Fiscal Perspective (Capital Expenditure Policy): The District will maintain a long-range fiscal perspective through the use of an Annual Operating Budget, Long Range Capital Improvement Program, and multi-year revenue and expenditure forecasting.

(f) Capital Improvements: Major capital improvement projects will be funded using the most financially prudent method available. Such methods include: 1) Traditional long-term financing (bond issues); 2) "Pay As You Go" financing (using recurring revenues only); 3) Combination of debt financing and "Pay As You Go" financing; and, 4) Using accumulated cash reserves in excess of policy requirements.

(g) Generally Accepted Accounting Principles: District staff shall comply with all generally accepted accounting principles promulgated by the state and federal government, regulatory agencies such as the Government Accounting Standards Board (GASB) and relevant professional associations such as the Government Finance Officers' Association (GFOA). *Ord. 34, 2000)*

Section 4.03.020. Operating Reserves. This policy establishes a minimum level of Reserves for Working Capital within Operating Funds of the District. Operating Funds of the District consist of the Solid Waste Fund and the Liquid Waste Fund.

(a) Policy: The District will maintain a minimum designated Reserve for Working Capital equal to 15% of its operating budget within its Solid Waste Fund, and 10% of its operating budget within its Liquid Waste Fund.

(b) Operating Reserves Required: The Reserves for Working Capital for Operating Funds will be maintained at a level equal to 15% of its operating budget within its Solid Waste Fund, and 10% of its operating budget within its Liquid Waste Fund, for the fiscal year. The District has a period of negative cash flow for the first five months of the fiscal year until such time as the annual charges have been collected and remitted to the District. This level of operating reserve provides the District with the necessary liquidity and resources to cover this period of negative cash flow as well as unanticipated expenses. It is prudent for governmental entities to maintain operating reserves which constitutes a sound operating practice as determined by oversight bodies, professional organizations, bond rating agencies and bond insurance companies. The operating reserve may only be accessed under the following circumstances, and only with Board approval.

1. Federal/State budget cuts resulting in loss of grant funding;

2. Local revenue shortfalls due to a downturn in the local economy (i.e. recession of the early 1990s and its impact on local units);

3. Increase in demand for specific services;

4. Legislative or judicial mandates to provide new or expanded services or programs without new or fully off-setting revenues;

5. One-time Board approved expenditures;

6. Unexpected increases in inflation (Consumer Price Index); and,

7. Natural disasters (earthquakes, fires, or other general infrastructure failures).

If the operating reserves are required to be used, staff will incorporate a plan to restore the Reserves for Working Capital to 15% of the Solid Waste operating budget and 10% of the Liquid Waste operating budget as part of the subsequent year's proposed budgets. Originally adopted by Ordinance 34, July 13, 2000; amended by Ordinance 71, September 18, 2008.

Section 4.03.030. <u>Fairness and Equity.</u> This policy establishes District policy with regard to the calculation of rates and charges to District customers. It is the intention of this policy to ensure that all classes of users are equitably charged for the services rendered.

(a) Policy: All customers of the District will pay their fair and proportionate cost of the services provided by the District.

(b) Effective Date: The effective date of this policy is July 1, 2000.

(c) Date Adopted: July 13, 2000. *(Ord. 34, 2000)*

Section 4.03.040. Recurring Revenue Growth. This policy sets forth that recurring revenue growth (inflation) will be used to pay for recurring expenditures.

(a) Policy: Recurring expenditure increases should not be approved which exceed recurring revenue growth. Any new or expanded programs will be required to identify new funding sources and/or offsetting reductions in expenditures.

(b) Matching Revenue to Expenditures: Recurring revenue growth may not always increase at a rate equal to or faster than the recurring expenditures it supports. As a result, the District will avoid using such growth as start-up revenue for new projects or programs that have ongoing costs. Increases in service levels should be supported by new or increased revenue sources or reallocation of existing resources. If normal revenue inflation and/or growth does not keep up with expenditures inflation, the District will decrease expenditures or seek new revenue sources. If long-term revenues grow at a rate faster than expenditures inflation, the Board can consider expanding service levels accordingly or reducing rates, fees, charges, etc.

(c) Effective Date: The effective date of this policy is July 1, 2000.

(d) Date Adopted: July 13, 2000. *(Ord. 34, 2000)*

Section 4.03.050. Risk Management/Retention. The District will maintain adequate levels of reserves for self-insured risk retention levels.

(a) Policy: The District will maintain appropriate reserves for general liability claims and other programs or self-insured risk retention levels to meet statutory requirements and actuarially projected needs.

(b) Risk Management/Liability Reserves: General liability insurance reserves are maintained in a sufficient manner to fund the District's recorded liabilities for lawsuits and other claims arising out of the ordinary course of business. These reserves should also be maintained in such a manner to fund estimated losses for claims and judgments, levels of self-insurance or other retained risks. Losses for claims incurred but not reported may be pre-funded in the reserves or may be funded when the probable amount of loss can be reasonably estimated. Such reserves will also meet all applicable statutory requirements. The minimum level of the reserves will be determined on an annual basis. If the reserves drop below levels prescribed by this policy and cannot be readily replenished, staff will bring the matter to the Board's attention. In discussing the inadequacy of the reserves with the Board, staff will make every effort to give the Board viable options in choosing the best course of corrective action.

(c) Effective Date: The effective date of this policy is July 1, 2000

(d) Date Adopted: July 13, 2000. *(Ord. 34, 2000)*

Section 4.03.060. Long Range Fiscal Perspective (Capital Expenditure Policy). A long range fiscal perspective will be maintained to provide a more comprehensive overview of the District's needs.

(a) Policy: The District will maintain a long-range fiscal perspective through the use of an Annual Operating Budget, Long Range Capital Improvement Program, and multi-year revenue and expenditure forecasting. The General Manager shall develop and annually update a long range projection of capital expenditures. The first year of the projection will be incorporated into the annual budget of non-operating funds. The Board of Directors will consider projects based on necessity and availability of financing and establish project priorities based upon staff recommendations. The Capital Expenditure Program shall be reviewed and updated annually. It is recognized that with time, certain factors will change and influence specific projects requiring acceleration, deferment, termination or adjustment in the scope of a project. The annual update will provide a review to consider such changes. Prior to commencement of any design or construction work on any project covered in the Capital Improvement Program, the project shall be submitted to the Board of Directors for authorization to proceed.

(b) Long Range Planning: A long-range financial perspective is essential to provide a more comprehensive and thorough overview of the District's long-term financial needs. Components of this action plan include the use of an Annual Operating Budget and multi-year revenue and expenditure projections. This approach will be supported by staff's use of historical data and comparative data as appropriate. In addition, a Long Range Capital Improvement Program will be maintained and annually updated to help the Board better understand the potential long-term funding sources and cost impacts on the District's operating budget.

(c) Effective Date: The effective date of this policy is July 1, 2000.

(d) Date Adopted: July 13, 2000. *(Ord. 34, 2000)*

Section 4.03.070. Capital Improvements. The District will develop appropriate funding mechanisms for long-term capital improvements.

(a) Policy: Major capital improvement projects will be funded using the most financially prudent method available. Such methods include: 1) Traditional long-term financing (bond issues); 2) "Pay As You Go" financing (using recurring revenues only); 3) Combination of debt financing and "Pay As You Go" financing; and, 4) Using accumulated cash reserves in excess of policy requirements.

(b) Capital Improvement Funding: The traditional method to obtain funds for major capital improvement projects has been to issue long-term debt instruments such as bonds, Certificates of Participation (CoPs), etc., which mature 15 to 30 years from the date if issuance. In general, a bond issue's maturity should approximate the useful life of the asset being financed. Long-term capital improvement financing needs should be financed,

as much as possible, with long-term debt (bonds). Short-term capital improvement financing needs should be financed with short-term debt (short-term lease purchase, revenue anticipation notes, etc.). However, it is also acceptable to use cash which has been accumulated in excess of policy requirements to pay for either long-term and/or short term capital improvements. The actual use of accumulated cash for such projects will be determined by the District Board on a case-by-case basis. It is the District's practice to use whatever financing mechanism(s) that best meets the goals and objectives of the applicable capital improvement project(s).

Specifically, the following general rules will be used in determining what to finance and how:

1. Capital improvement projects of less than $100,000 should be financed out of operating revenues (or accumulated cash). Such projects may be included in the Long Range Capital Improvement Program (CIP).

2. Capital improvement projects in excess of $100,000, or inter-related projects in excess of $100,000, will be made a part of the Long Range CIP, and all such projects should be grouped to allow effective use of financing mechanisms or other funding sources.

3. On-going expenses related to Capital Improvement Program projects (e.g. maintenance and staffing costs) must be identified and the source of on-going revenues to support those costs must be identified. Debt financing will not be used to support on-going operating costs.

4. Prior to commencement of any design or construction work on any project covered in the Capital Improvement Program, the project shall be submitted to the Board of Directors for authorization to proceed.

(c) Effective Date: The effective date of this policy is July 1, 2000.

(d) Date Adopted: July 13, 2000. *(Ord. 34, 2000)*

Section 4.03.080. Generally Accepted Accounting Principles. The District will comply with all generally accepted accounting principles promulgated by the state and federal government, regulatory agencies, and relevant professional associations.

(a) Policy: District staff shall comply with all generally accepted accounting principles promulgated by the state and federal government, regulatory agencies such as the Government Accounting Standards Board (GASB) and relevant professional associations such as the Government Finance Officers' Association (GFOA).

(b) Standard: All books and records shall be maintained in accordance with such standards promulgated by the aforementioned agencies. Financial statements shall be prepared and presented to the Board on a periodic basis as determined by the Board and in such a format so as to conform to professional reporting standards and in

sufficient detail to provide the Board with information necessary for management decision-making purposes. In full compliance with California Government Code Section 53646, the District Treasurer, will prepare a formal set of Investment Policies for Board of Directors adoption. This is to be done on an annual basis.

(c) Effective Date: The effective date of this policy is July 1, 2000.

(d) Date Adopted: July 13, 2000. *(Ord. 34, 2000)*

Chapter 4.04 Purchasing

Section 4.04.010. Title. This chapter shall be known and may be cited and referred to as the "Purchasing Ordinance of the Costa Mesa Sanitary District."

Section 4.04.020. General Purpose. The purpose of this chapter is to define a uniform system for the purchase of supplies, services and equipment by the District, to provide for the fair and equitable treatment of all persons involved in the purchasing process, to obtain the highest possible value in exchange for public funds and to safeguard the quality and integrity of the purchasing system.

Section 4.04.030. Definitions.

(a). Unless otherwise indicated, the following definitions shall apply to all provisions of this chapter:

1. "Act" means the Uniform Public Construction Cost Accounting Act found in Public Contract Code Section 22000 et seq.

2. "Alternative purchasing procedure" means purchasing supplies, services or equipment when any of the following situations exist: An emergency; no competitive market; competitive bidding already completed; state purchases; or no bids received.

3. "Best value" means the best value to the District based on all factors that may include, but not limited to the following:

A. Cost;

B. The ability, capacity and skill of a contractor to perform a contract or provide the supplies, services or equipment required;

C. The ability of a contractor to provide the supplies, services or equipment promptly or within the time specified without delay or interferences;

D. The character, integrity, reputation, judgment, experience and efficiency of a contractor;

E. The quality of a contractor's performance on previous purchases/services with the District; and

F. The ability of a contractor to provide future maintenance, repairs, parts and services for the use of the goods and services purchased.

4. "Authorized contracting party" means the District official or body provided with authority under this chapter to approve a contract or to make a purchase.

5. "General Manager" means the general manager or person designated by the general manager to perform all or some of the duties prescribed in this chapter.

6. "Commission" means the California Uniform Construction Cost Accounting Commission created by Division 2, Part 3, Chapter 2, Article 2 of the California Public Contracts Code (commencing at Section 22000).

7. "Direct bidding procedure" means quotes shall be obtained, if applicable for purchases more than five thousand dollars ($5,000) and less than thirty thousand dollars ($30,000) and a Pricing Quote Sheet completed. The general manager shall approve final selection

8. "Emergency" for purposes of public projects shall have that meaning provided in Public Contract Code Sections 22035 and 22050. Emergency for all other purchasing purposes means a situation which makes competitive bidding, either formal or informal, impractical or not in the best interests of the District.

9. "Formal bidding procedure" means a procedure which meets the requirements of state and local law, including the Act, this chapter and any policies and procedures approved by the general manager consistent with this chapter.

10. "Informal bidding procedure" means that at least three (3) bids shall be obtained from a predetermined vendor list for purchases of more than thirty thousand dollars ($30,000) and less than one hundred twenty five thousand dollars ($125,000) and the general manager shall approve final selection.

11. "Maintenance work" shall have that meaning provided in Section 22002(d) of the Act, as that Section may be amended from time to time. In accordance with the Act, maintenance work shall include, but shall not be limited to, all of the following:

A. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

B. Minor painting.

C. Sewer maintenance, including videotaping, cleaning, manhole restoration and pump station maintenance are repairs.

D. Maintenance of facilities, including roof repairs, heating and air conditioning repairs, and electric repairs.

E. Vehicle and equipment maintenance and repairs.

12. "Negotiated contract" shall mean a written agreement which details terms and conditions of the purchase.

13. "Professional services" means all services performed by persons in a professional occupation, including, but not limited to, consulting and performance services for accounting, auditing, computer hardware and software support, engineering, architectural, planning, financial, legal, management, environmental, communication and other similar professional functions which may be necessary for the operation of the District.

14. "Public project" shall have that meaning provided in Section 22002(c) of the Act, as that Section may be amended from time to time. In accordance with the Act, public project shall not include maintenance work. In addition, public project shall include, but shall not be limited to the following:

a. Construction, reconstruction, erection, alteration, renovation, improvement, demolition involving any publicly owned, leased, or operated facility.

15. "Purchasing officer" means the general manager or his or her designee(s) as provided in Section 4.04.040. Pursuant to Section 4.04.040, the general manager may change his or her designation at any time.

Section 4.04.040. Purchasing Officer. The purchasing officer shall be the general manager or his or her designee(s). If the general manager designates one or more persons to act in this role, the purchasing officer(s) shall serve at the pleasure of the general manager. The duties of the purchasing officer may be combined with those of any other officer(s) or position(s).

Section 4.04.050. Purchasing Officer - Powers and duties.

(a). The purchasing officer, in accordance with the policies set forth in this chapter and in any written procedures approved by the general manager consistent with this chapter, shall have the power to:

1. Purchase or contract for supplies, services and equipment required by the District.

2. Negotiate and recommend to the Board of Directors execution of contracts for the purchase of supplies, services and equipment.

3. Prepare and implement policies and procedures governing the bidding, contracting, purchasing, storing, distribution and disposal of supplies, services and equipment for the District.

4. Prescribe and maintain such forms as may be reasonably necessary to the implementation of this chapter and any other policies and procedures approved by the general manager consistent with this chapter.

5. Sell any supplies and equipment not needed for public use or that may become unsuitable for their intended use.

6. Develop and maintain any bidder's list, contractor's list or vendor's catalog file necessary to the operation of this chapter and any other policies and procedures approved by the general manager consistent with this chapter.

Section 4.04.060. <u>Purchasing Polices and Procedures.</u>

(a). The District shall secure supplies, public projects and equipment at the lowest cost commensurate with the quality and scope needed, and subject to any limitations imposed by state law.

(b). The District shall secure professional and maintenance services based on Best Value and subject to any limitations imposed by state law.

(c). In purchasing, supplies, services and equipment, the District shall make use of competitive bidding, either direct, formal or informal, whenever required by law, this chapter, or any policies and procedures approved by the general manager consistent with this chapter.

(d). Direct, formal or informal competitive bidding is not required, for instance, when an "emergency" is declared pursuant to Section 4.04.120(a) of this chapter.

(e). Change Orders. The general manager shall have authority to approve change orders up to the cumulative amount of ten percent of the original contract. The Board of Directors shall have the authority to approve any change order in an amount exceeding ten percent of the original contract amount.

Section 4.04.070. <u>Bidding, Purchasing and Contracting.</u>

(a). *$5,000 or less:* Any purchase of $5,000 or less may be awarded by the general manager or his or her designee(s) responsible for the project by any direct bidding procedure as defined herein.

(b). *$5,001 - $125,000:* Any purchase of more than five thousand dollars ($5,000), but less than or equal to one hundred twenty-five thousand dollars ($125,000) may be awarded by the general manager pursuant to the informal bidding procedure set forth in Section 4.04.100.

(c). *$125,001 or more:* Any purchase of more than one hundred twenty-five thousand dollars ($125,000) shall be awarded by the Board of Directors pursuant to the formal bidding procedure set forth in Section 4.04.110.

(d). *District Engineer Approval:* The district engineer shall review and approve the working details, drawings, plans, and specifications prepared for public projects.

(e). *Purchasing Officer Approval:* The purchasing officer, or his or her designee, shall review and approve all contracts of five thousand dollars ($5,000) or more.

(f). *Five-Year Term Limitation:* No agreement or contract shall extend for a period of more than five (5) years, including any authorized extensions. Excepted from the foregoing limitation shall be the trash and recycling contracts and the professional services contracts for those persons serving as District Officers including General Manager, District Engineer, District Counsel and District Treasurer.

Section 4.04.080. <u>No Bidding Requirement.</u> In purchasing, supplies, services and equipment that will cost $5,000 or less no bids are required. The District shall negotiate the best price for the District and issue a purchase order.

Section 4.04.090. <u>Direct Bidding Procedure.</u>

(a). Direct bidding procedures shall be used for purchases between $5,001 and $30,000.

(b). If practical, at least three (3) vendors or contractors shall be contacted to provide informal quotes.

(c). Quotes received will be documented on the District "Quote Sheet".

(d). District's Authority: The District may reject any or all bids received, and may waive any minor irregularities in each bid received.

Section 4.04.100. <u>Informal Bidding Procedure.</u>

(a). Informal bidding procedures shall be used for purchases between $30,001 and $125,000.

(b). Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

(c). A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

(d). Notice Inviting Informal Bids. Where a public project is to be performed which is subject to the provisions of this chapter, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 4.04.100(b), and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. The notice shall describe the project in general terms and how to obtain more detailed information about the project, and state a time and place for submission of the bids. Additional contractors and/or construction trade journals may be notified at the discretion of the District soliciting bids, provided however:

1. If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.

2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

(e). Professional services and maintenance work that will cost between $30,001 and $125,000 shall be evaluated using the "Best Value" method.

1. If practicable, at least three (3) vendors or contractors shall be asked to submit informal bids, and the District shall endeavor to receive informal bids from at least three (3) vendors or contractors.

(f). Proprietary Projects or Products: If the general manager certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of contractors, and that no equivalent products or services are available, the notice inviting informal bids may be sent exclusively to such vendor(s) or contractor(s).

(g). District's Authority: The District may reject any or all bids received, and may waive any minor irregularities in each bid received.

(h). Proposal Submittal: Contractors shall submit their proposals in writing.

(i). No Bids Received: If no bids are received, the general manager may award the contract by any alternative purchasing procedure.

Section 4.04.110. <u>Formal Bidding Procedure.</u>

(a). This formal bidding procedure shall be used for purchases greater than $125,000 or whenever formal bidding purchasing is otherwise required by this chapter.

(b). The formal bidding procedure shall comply with all aspects of state and local law governing formal bidding, including, but not limited to, the Public Contract Code, Government Code, Labor Code, resolutions of the Board of Directors as may be adopted from time to time, and policies and procedures as the general manager may approve from time to time.

(c). The notice inviting formal bids shall comply with Section 22037 of the Act, as such section may be amended from time to time. For public projects only, the notice inviting formal bids shall be published at least 14 days before the date of opening a newspaper of general circulation as defined in Section 22037 of the Act. The notice shall also be sent to all construction trade journals specified in Section 22036 of the Act at least thirty (30) calendar days before the date of bid opening. Any other notice as may be deemed proper may also be given for any particular project.

(d). The Board shall adopt plans, specifications and working details for projects subject to formal bidding.

(e). Professional services and maintenance work that will cost more than $125,000 shall be evaluated using the "Best Value" method.

(f). District's Authority: The District may reject any or all bids received, and may waive any minor irregularities in each bid received.

(g). Proposal Submittal: Contractors shall submit their proposals in writing.

(h). No Bids Received: If no bids are received, the authorized contracting party may award the contract by any alternative purchasing procedure.

Section 4.04.120. <u>Using alternative purchasing procedures</u>.

For non-Public Projects and other situations provided in this section, an alternative purchasing procedure which results in a negotiated contract, force account, purchase order or any other procedure determined by the general manager to be in the best interests of the District and in compliance with the District's policies and procedures may be used.

(a). Emergencies: In situations determined by the general manager to constitute an emergency for a public project pursuant to Section 22035 of the Act and Public Contract Code Section 22050. The Board of Directors hereby delegates to the general manager the power to declare a public emergency and take any directly related and immediate action required by the emergency. Work shall be performed without the benefit of competitive bidding, either formal or informal, only so long as necessary under those sections. The general manage shall report to the Board at successive regular meetings stating the justification for continuing with the emergency work.

(b). Competitive Bidding Already Completed: When the authorized contracting party determines that a competitive bid procedure has been conducted by another public agency (e.g. through California Multiple Award Schedules or U.S. General Services Administration) and the price to the District is equal to or better than the price to that public agency.

(c). State Purchase: When the purchase is made on behalf of the District by the State Department of General Services.

(d). No Bids Received: When no bids are received pursuant to either the public project informal bidding procedure or the formal bidding procedure.

(e). No Competitive Market: When the general manager determines that a competitive market does not exist, such as, but not limited to, with memberships in certain professional organizations, meetings, conventions, some forms of travel, legal advertising and when the needed supplies, services and equipment are proprietary and can only be provided by one source.

(f). Best Interests of the District: When the Board of Directors, on recommendation of the general manager, determines that an alternative procedure will be in the best interests of the District and the policies set forth in this chapter."

Section 4.04.130. Debarment.

The District shall not do business with any person, firm, corporation, or any other entity convicted of any felony. *(Reso. 94-541, 1994)*

Section 4.04.140. Signature.

In accordance with the Health and Safety Code Section 6487, all contracts must generally be signed by the President and countersigned by the Secretary. Purchases orders and contracts for purchases of goods or services or public works below One Hundred Twenty Five Thousand Dollars ($125,000) may be signed by the General Manager or person formally authorized by the Board by resolution to sign on behalf of the District. Purchase orders and contracts $5,000 or less may be signed by the General Manager or person designated to sign by the General Manager.

Chapter 4.05 - Payments

4.05.010 **Purpose**. This Chapter enacts procedures for the payment of claims consistent with Government Code Section 53910 et seq.

4.05.020 **Payments Conforming to Budget**. The District Board of Directors delegates to the General Manager the approval of all warrants, including payroll after warrants drawn in payment demands are certified by District Accountant as conforming with the adequate appropriations that have been previously approved and adopted by the Board. Budgeted demands paid by warrant prior to audit by the Board of Directors, excluding payroll, shall be presented to the Board of Directors for ratification and approval at the next regular Board meeting after delivery of warrants . The payroll warrants will be aggregated and submitted in total to the District Board of Directors at the next regular Board meeting.

4.05.030 **Audit Procedure**. The Board of Directors shall audit and ratify all payments on their warrant register each month or at such other intervals as it shall determine. *(Ord. 47, 2004)*

TITLE 5

Chapter 5.01 - Annexations

Section 5.01.010. Policy. It is the policy of the District that no property may be served for sewer or trash unless the same has been annexed to the District and all appropriate fees paid for such annexation. *(Ord. 20, 1989)*

Section 5.01.020. Exceptions. In accordance with Government Code Section 56133 or successor statute (if applicable), and if the Orange County Local Agency Formation Commission (OC LAFCO) first approves of such service within the District's sphere of influence, the Board may determine, in extraordinary circumstances, that a property may be served by a service agreement. Such an agreement should not be entered into unless the Board has determined that it is in the best interests of the inhabitants of the District. (See Trimont v. Truckee Sanitary District (1983) 193 Cal. Rptr. 568) *(Ord. 20, 1989; Ord. 30, 1999)*

Section 5.01.030. Procedure. The following is the typical procedure for processing an application to annex to the District:

(a) Applications by the legal owner of the property initiates the process. The District Engineer shall thereafter coordinate the process.

(b) The District Engineer assigns an annexation number and the applicant shall deposit a check covering District and other agency fees.

(c) The District Engineer shall prepare a map and legal description and forwards the map and legal description to the County of Orange Surveyor's Office for approval and then to the District Counsel to prepare the resolutions required.

(d) District Engineer shall determine if the appropriate environmental review has occurred.

(e) District warrants shall be prepared for processing through OC LAFCO, the State Board of Equalization and the County of Orange.

(f) The District staff shall develop a detailed procedure that describes this process in greater detail and maintain that procedure for use of staff and the public. *(Ord. 30, 1999)*

Title 6

Chapter 6.01 - Sewer Construction and Permits

Section 6.01.010. Sewer Main Construction. All sewer mains shall be installed in accordance with the Standard Plans and Specifications for the Construction of Sanitary Sewers, as the same may be amended from time to time. *(Ord. 30, 1999)*

Section 6.01.015 Plumbing Code Adopted. The California Plumbing Code, 2010 edition, or such later edition as may be adopted by the State of California, as set forth in Title 24 of the California Administrative Code and Appendix L, is hereby adopted by reference as the Plumbing Code for the District and shall apply to sewer system plumbing in the District to the extent not otherwise provided for in the District's Operations Code Violations of the Plumbing Code shall be punishable as a misdemeanor as provided in Section 1.02.010 of the Operations Code."
(Ord. 80, 2010)

Section 6.01.020. Sewer Lateral Construction. All sewer laterals connected to a District sewer main shall meet the requirements of the District's Sewer Lateral Specifications, as the same may be amended from time to time. *(Policy Statement 7/8/1982)*

Section 6.01.030. Sewer Lateral Extension. When the local agency determines to acquire additional right of way to widen any street or to perform any similar project, the local agency shall also cause the construction design to include the extension of the existing sewer laterals with respect to meeting District approved size, material and slope from the prior property line to the new property line. After District has inspected, approved and accepted the extensions, the District will reimburse the local agency for the cost of these extensions. The District retains the right to extend said laterals in its discretion. *(Policy Statement 12/4/1974)*

Section 6.01.040. Sewer Laterals for Common Developments. Condominiums, townhomes, cooperatives and other land uses in which there is a right to ownership of some part of their living units but common ownership of other land and appurtenances, may have private sewage collection systems that may connect to the Districts sewer main and/or sewerage system under the following conditions:

(a) Providing there is some form of a common governing body capable of obligating itself to the District for repair, maintenance and upkeep;

(b) Providing that there is an independent lateral from each living unit to the central gathering system;

(c) Providing that the entire system that is located, on private property including but not necessarily limited to, laterals, central gathering system, clean-outs, and other portions of the system, comply with the Uniform Building Code of the jurisdiction in which the project is constructed;

(d) Providing the governing body agrees to comply with District Operations Code with respect to maintenance;

(e) Providing that the covenants, conditions and restrictions to be recorded on the project contain provisions providing for individual laterals, a central gathering system, compliance with District Operations Code and such other requirements as the District may establish from time to time, said conditions, covenants and restrictions to be approved by the District Counsel;

(f) Such other conditions as the Board may uniformly impose from time to time.

The District may, at its option, accept the central gathering system as District lines assuming the obligation of maintenance, repair and upkeep, provided right-of-way for said central gathering system is dedicated to the District and said central gathering system is constructed in accordance with standard specifications of the District and is inspected and approved by District Engineer. *(Policy Statement 2/11/1982)*

Section 6.01.045. Multiple Single Family Dwellings on a Single Lateral Prohibited. Multiple single-family dwellings shall not be connected to a single sewer lateral but shall each have their own lateral unless one of the following criteria is met:

(a) When those dwellings are part of a common interest development which has conditions, covenants and restrictions (CC&Rs) establishing a homeowner's association and where such CC&Rs impose the burden of maintaining the lateral on the association and such CC&Rs also meet the approval of the District.

(b) For preexisting single-family homes connected to a single sewer lateral before the District enacted its laws requiring a separate lateral to serve each single-family residence, provided those residences do not undergo a major enlargement or remodel and provided no sewer spills have occurred from said residence.

(c) For preexisting single-family homes connected to a single sewer lateral before the District enacted its laws requiring a single sewer lateral, that undergoes a major enlargement or remodel, provided that the owners comply with the District's televised sewer lateral program, as described in Chapter 6.03.

(d) For purposes of this section, a "major enlargement or remodel" shall occur when the costs of said remodel exceeds $50,000 or adds in excess of 300 square feet.

(e) Other than as provided above, no person shall connect, permit, maintain or cause to be connected or maintained, more than one single-family dwelling on a single sewer lateral. Each person connecting, maintaining or permitting a single-family dwelling to be connected in violation of this section shall be guilty of a misdemeanor and punishable as provided in Chapter 1.02 of this code. *(Ord. 61, 2007)*

Section 6.01.050. Major Private Sewer Works on Private Property. The following preconditions shall apply before a connection is made to District facilities of a major private sewer works located on private property:

(a) Sewer plans shall have been approved by the District Engineer;

(b) At the option of the developer of said sewer project, the project may be inspected in its various stages of construction by the District Engineer;

(c) Deposits with the District shall have been made of a sum of money established by the District Engineer against which the District may draw to cover said sewer plan approval and inspection;

(d) Provide to both the District and the City of Costa Mesa, the County of Orange, or the City of Newport Beach as the case may be, a registered civil engineer's certification that said private sewer project construed on private property and connected to District facilities was constructed in accordance with District's standards.

(e) Developer shall submit evidence from the City of Costa Mesa, County of Orange, or the City of Newport Beach, as the case may be, that District public works standards are acceptable for the sewer design in lieu of the Uniform Plumbing Code. *(Reso. 94-550, 1994)*

Section 6.01.060. Sewer Lateral Specifications. The following shall be the District's sewer lateral specifications:

(a) Material of pipe - Any sewer line between the property line and sewer main shall be made of ductile iron pipe, vitrified clay pipe or of such other materials that may meet the approval of the Costa Mesa Sanitary District.

(b) Placement - All sewer laterals shall be placed at such a depth that the top of the pipe is five (5) feet below the top of the curb. Where there is no curb or established grade, the top of the lateral must be at least five (5) feet below the ground surface.

Every building and structure situated within the boundaries of the Costa Mesa Sanitary District shall have separate and independent sewer connections. In instances where more than one building or structure is situated upon the same lot and owned by the same person, firm or corporation, a permit may be granted by the Sanitary District to allow joint use of a connecting sewer line.

(c) Grade - All sewer grades must be at least one-quarter of an inch to the foot sloping towards the outlet and all sections must be laid in perfect line on bottoms and sides. Anything less than a 2% fall is subject to approval by the District Engineer. Cross cuts deep enough to receive the socket of the pipe shall be cut in bottom of the trench so that the pipe will not rest on the socket, but have a bearing the full length of the pipe.

(d) Size of pipe - All sewer laterals in the right-of-way shall be six inches in diameter. All native soil must be removed and backfilled as required by the District Engineer.

(e) Alignment - All changes in the direction of sewer lines shall be made by the use of wyes (Y's) and one-eighth bends. Where pipes of different materials but of the same diameter are to be jointed, connection shall be made so that the flow line of the two pipes or fittings are to be level.

(f) Openings - All wyes (Y's) and tee openings in sewers, which are not used for connections shall be closed by approved plugs.

(g) Clean-outs - A clean-out must be provided behind the property line and the top must not be less than one foot below the grade. All clean-outs shall be made with the use of a wye (Y), and shall run towards the sewer main.

(h) Inspection - The Costa Mesa Sanitary District shall provide for the inspection and approval of the construction of all street connections and house sewers to be built within the District. *(Policy Statement 7/8/1982)*

Section 6.01.070. - Acceptance and Inspection of Sewer Lines. No dedication will be accepted and no tie into District facilities will be allowed where the District Engineer has not approved plans and drawings and has not inspected the project during its course of construction. *(Policy Statement 12/6/1967)*

Section 6.01.080. Acceptance of Right of Way Easements. The following conditions must be met before the District accepts any right of way for underground sewer installation:

(a) Parties offering the right-of-way easements shall tender said right-of-way easements on forms approved by DistrictEngineer and supplied by the District:

(b) Said right-of-way easement documents are accompanied by a preliminary title report showing the party offering the right-of-way easement to be the fee owner thereof:

(c) Said right-of-way easement documents shall be accompanied by such maps or plats as may be required by the District Engineer; and

(d) No right-of-way documents will be offered to the District Board for acceptance and recording until the District Engineer has approved the legal description and until the District Counsel has approved the authority of the party signing the right-of-way easement documents to convey right-of-way easement title to the District; and

(e) Permits for construction within the right-of-way easement will not be issued until the Board has accepted the right-of-way easement documents in recordable form as provided for herein; and

(f) Any improperly tendered documents will be returned to the offering party to be corrected; and

(g) A copy of this Section be provided to any party proposing to offer a right of way easement to the District. *(Reso. 94-551, 1994)*

Section 6.01.090. <u>Extension/Oversizing</u>. The District may require a developer or owner to oversize or extend a line or appurtenance or provide additional lines or appurtenances beyond what is required to serve the development being proposed. In such cases the District may determine that it would be fair and equitable for future owners or users of the lines or appurtenances to reimburse the developer for such additional costs on a pro-rata basis with future owners/users. Such reimbursement may be allowed under the following conditions:

(a) District may require sewer lines to be constructed by a developer of a parcel or parcels at developer's expense to reach District facilities not immediately adjoining developer's parcel.

(b) Other appurtenances or oversizing may also be required.

(c) Such sewer line or appurtenance construction may benefit other parcels which adjoin the line constructed by developer.

(d Such other parcels should not enjoy a windfall benefit and should share in the cost expended to sewer the first parcel or parcels.

(e) Prior to allowing connection to District facilities developers of a subsequent parcel or parcels shall be required to enter into a contract with District whereby such developer of subsequent parcel or parcels agrees to such developer's pro rata share of the original construction cost under terms and conditions established by District.

(f) Upon receipt of said sum District shall forthwith remit said sum less administrative costs to the initial developer having paid for the entire sewer line benefiting all parcels.

(g) All sums unpaid when due as agreed upon by said contract shall bear interest at the rate of six (6%) percent from the time due until paid.

(h) The District Engineer shall prepare for Board approval a report setting forth the total cost of said sewer line construction, the cost to District for the administration of the contract, the number and location of parcels to be served, the total of other District fees to be shared by all benefiting parcels, and such other data that may be necessary for reimbursement required by this Section.

(i) No reimbursement will be made beyond ten (10) years from the date of the final approval of the project by the District Engineer.

(j) No connection to any District facility affected by this Section shall be allowed until the provisions hereof shall have been fully complied with and approved by the District Engineer. *(Reso. 94-552, 1994)*

Chapter 6.02 - Sewer and Lateral Maintenance

Section 6.02.010. District Maintenance. Unless provided otherwise by contract or other arrangement, District shall maintain those sewer mains and appurtenances that it owns. (Ord. 8, 1971; Ord. 30, 1999)

Section 6.02.020. Lateral Responsibility. The property owner shall maintain the lateral that connects to district's sewer main, including any portions that may lie within the public right of way or Costa Mesa Sanitary District easement. Said laterals shall be maintained in a safe, sanitary and unobstructed condition, and all devices or safeguards which are appurtenant to and necessary for the operation thereof shall be maintained in good working order. Hydrogen sulfide represents a particular corrosion and odor problem. Owners shall comply with standards of the Orange County Sanitary District with respect to effluent placed in the lateral including, but not limited to hydrogen sulfide, which shall not exceed 0.5 milligrams per liter or such stricter standard as the Orange County Sanitation District may adopt. *(Ord. 8, 1971) (Ord. 81, 2010)*

Section 6.02.030. Sewer or Lateral Work. All work done on or to any sewer or lateral shall be done in a careful and prudent manner so as to not damage District facilities. Only persons licensed appropriately and having all necessary permits shall be allowed to do such work and may be required to post a bond before beginning with the project. *(Ord. 8, 1971)*

Section 6.02.040 Sewer Lateral Assistance Program. Based on a finding by the Board that District's assistance to private sewer lateral owners would serve a public purpose and would assist in preventing Sanitary Sewer Overflows in the District, the Board has determined to offer a sewer lateral assistance program, the details of which shall be established in a resolution of the Board. *(Ord. 63, 2007) (Reso. 2007-742, 2007)*

Chapter 6.03

Televising and Repair of Sewer Laterals

6.03.010 Purpose. The District is under an Order from the State Water Resources Control Board to enact laws to prevent Sanitary Sewer Overflows (SSOs) through the adoption of a comprehensive Sewer System Management Plan. It has been recognized that poorly maintained sewer laterals can cause SSOs, which may reach the storm water system and ultimately the Santa Ana River and the Pacific Ocean. Televising of the sewer laterals at appropriate times will reduce the amount of SSOs. The District finds that requiring such televising at the times described is reasonable and rationally related to the legal obligation of the District to help prevent sewer spills.

6.03.020 Events Requiring Televising of Sewer Laterals. Property owners shall be required to cause an inspection of their sewer lateral prepared by a licensed plumber and utilizing closed circuit television (CCTV) or other inspection determined by the District Engineer to be equivalent in the following circumstances:

(a) Whenever a condominium conversion is proposed.

(b) Whenever a major remodel costing in excess of $50,000 or whenever an enlargement of 300 square feet or more is added to a dwelling.

(c) Whenever two or more plumbing fixtures are added.

(d) Whenever a sanitary sewer overflow occurs at the property.

6.03.030 Requirements for a CCTV Inspection and Repairs. When required under certain sections of the District's Operations Code, the following procedure shall be used by the property owner to obtain approval for the use of an existing sewer lateral:

1. The property owner shall have a closed circuit television (CCTV) inspection of the sewer lateral performed by a licensed plumber.

2. The CCTV video shall show the date of the inspection, identify the beginning point of the inspection, include an audio assessment of the proceedings by the licensed plumber, and include a footage counter to identify points along and the ending point of the inspection.

3. The licensed plumber shall mark on the ground surface directly above the lateral for the benefit of the property owner the location of problem areas including the incidence of roots, joint problems, pipe problems, infiltration, or other significant findings.

4. The property owner shall furnish the District with a copy of the CCTV inspection report within 14 days of the performance of the CCTV inspection. The District shall review the CCTV inspection and shall respond with its findings within 14 days.

5. District Staff, including the District Engineer, the Operations Manager, and Inspection staff shall review the CCTV inspection report and will assess whether the existing lateral is sufficient in its existing condition or whether rehabilitation is necessary.

6. If the CCTV inspection report discloses root intrusion that prevents the District from observing the structural condition of the private sewer lateral, the property owner may be required to have a licensed plumber remove the roots and perform a second CCTV of the sewer lateral.

7. Based on the CCTV inspection of the sewer lateral, the District will evaluate the condition of the sewer lateral and its ability to remain in adequate service for 30 additional years while preventing infiltration and the ability of any misaligned joints or roots to cause a sanitary sewer overflow (SSO).

8. The District may require the property owner to rehabilitate the sewer lateral to insure a life expectancy of an additional 30 years.

6.03.040 Appeal. Should any person be dissatisfied with any position of staff with regards to their compliance with this chapter, they are entitled to appeal the decision to the Board of Directors by filing such an appeal within 15 days of the decision, provided notice of the time limit is given by the District in writing. The person so appealing shall state in a written document the person whose decision is being appealed, the grounds for the appeal, and any back up data that supports the appeal. The Board shall hear the appeal within a reasonable time thereafter.
(Ord. 62, 2007)

"Chapter 6.04 -

Development and Miscellaneous Fees, Permits and Charges

Section 6.04.010. Introduction. The Sanitary District collects various fees, permits and charges related to development approvals and other miscellaneous services the District provides. This Chapter shall describe those fees, permits and charges and clarify why the same are paid and the limitations that may exist with respect to how such fees and charges are collected, expended and accounted.

Section 6.04.020. User Fees. These charges are meant to reasonably approximate the cost to the District to provide a service to a person or company. These would include, but not be limited to, charges for reviewing plans or inspecting a sewer, or making copies of District documents. These charges may be pass-through costs of District's engineer, inspector or surveyor. Annexation fees would also be such a user fee. This may also include the cost of making copies, as limited by the California Public Records Act. These charges are always to be based on estimated costs to the District, including, where appropriate, reasonable amounts of overhead. In appropriate cases an estimate shall be made, and the person/company for whom the service is to be provided shall be required to make a deposit of the estimated costs. The person providing the service shall bill against the deposit, and a detailed accounting shall be made. Additional sums may need to be paid or a refund may be appropriate. In other cases where the tasks are reasonably routine, a per-service charge shall be the sole amount collected but shall be based on time and motion estimates of the average charge for the service. These fees are generally set forth in this Code.

Section 6.04.030. Connection Fees. Generally, connection fees would be charged in lieu of the developer or owner installing a sewer facility. Pursuant to statutory and case law, these fees are the direct cost of installing the sewer. The District's connection permit fee, by contrast, is a fee to cover the cost of issuing the permit.

Section 6.04.040. Fixture Fees. Fixture fees are capacity charges for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. The following applies to those fees:

(a) Purpose. Fixture fees shall be used for the purposes identified in the engineer's report that establishes the facilities that are to be constructed or rehabilitated to serve the development upon which the fees are imposed. Those facilities shall either be directly related to the development or indirectly related in which case the fixture fee shall only pay a fair portion of the charges.

(b) Facilities. The facilities for which the fees are collected shall be identified in an engineer's report. Those facilities should, but need not be, included in the District's Capital Improvement Plan.

(c) Reasonable Relationship between Development and Fee. The engineer's report shall demonstrate a reasonable relationship between the type of development and the use of the fee.

(d) Reasonable Relationship between Facility and Type of Development for which Fee Imposed. The engineer's report shall demonstrate a reasonable relationship between the type of development and the facility being proposed.

(e) Reasonable Relationship between Amount of Fee and the Cost of the Facility or Portion of the Facility. In any action imposing a fee on a development, the District shall be able to justify the amount of the fee and the cost of the facility or portion of the facility attributable to the development.

(f) Deposit. Upon payment of the fees, the money shall be deposited in a separate capital facilities account maintained in accordance with Government Code Section 66013(d). For each such separate account, the District shall, within one hundred eight (180) days of the close of the fiscal year, make available to the public the following information:

(1) A description of the charges deposited in the fund.

(2) The beginning and ending balance of the fund and the interest earned from investment of moneys in the fund.

(3) The amount of charges collected in that fiscal year.

(4) An identification of all of the following:

(A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.

(B) Each public improvement on which charges were expended that was completed during that fiscal year.

(C) Each public improvement that is anticipated to be undertaken in the following fiscal year.

(5) A description of each interfund transfer or loan made from the capital facilities fund. The information provided, in the case of an interfund transfer, shall identify the public improvements on which the transferred moneys are, or will be, expended. The information, in the case of an interfund loan, shall include the date on which the loan will be repaid, and the rate of interest that the fund will receive on the loan.

Section 6.04.050. Definitions. For the purpose of this chapter, certain words and terms are defined as follows:

(a) Fixture Fee Charges. Are those District charges paid by or on behalf of the property owner for the construction of public improvements that will benefit a development and that are justified by an engineering and financial analysis in accordance with Government Code Section 66013 or successor statute.

(b) Connection Manhole. Shall mean a manhole constructed in the main line of a District sewer not as part of the original construction, or a manhole built adjacent thereto, for the purpose of permitting sewage to flow into a District sewer.

(c) District Sewerage Facility. Shall mean any property belonging to District used in the transportation or disposal of sewage or industrial waste.

(d) Domestic Sewage. Shall mean the waterborne wastes derived from the ordinary living processes which are of such volume and character as to permit satisfactory disposal into a public sewer.

(e) Dwelling Unit. A dwelling unit shall consist of one or more rooms in any building designed for occupancy by one family and containing one kitchen unit.

(f) Industrial Waste. Shall mean any and all liquid or solid waste substance, not sewage, from any producing, manufacturing or processing operation of whatever nature.

(g) Industrial Waste Treatment Plant or Facility. Shall mean any works or device for the treatment of industrial waste prior to its discharge into the District sewerage facilities.

(h) Plumbing Fixture Unit. A plumbing fixture unit as used in this ordinance is defined as being the same as set forth in the California Plumbing Code, a copy of which is one file in the office of the Clerk of the District. All roughing-in for future fixtures will be counted as fixture units to set charges.

(i) Pretreatment. Shall mean treatment prior to discharge into a District sewerage facility by means of an industrial waste treatment plant or facility.

(j) Public Corporation. Shall mean any city, district or other public agency duly authorized under the laws of the State of California.

(k) Sewerage Facilities. Shall mean any facilities used in the collection, transportation, treatment or disposal of sewage and industrial waste.

(l) Sewer Manholes. Shall mean those manholes constructed as a part of the District's sewer system.

Section 6.04.060. Permit Regulations.

(a) Requirements. No person or public corporation shall connect to, use or maintain a connection to the sewerage facilities of the District without a valid permit, or fail to comply with each and every condition of that permit.

(b) Condition Precedent. No permit shall be valid unless the real property to be sewered by the use of the permit shall be included within the boundaries of the District or is currently being annexed to the District or unless said property is subject to or is being made subject to a service contract between real property owner and the District.

(c) Permit. A sewer permit shall be comprised of two different components: (1) a permit to connect to the District's system, and (2) a permit to use or discharge into the system.

(1) Permit to Connect. A connection permit for the purpose of authorizing connection to a District sewerage facilities in accordance with District's regulations and under conditions set forth in said permit is required before connection will be authorized.

(2) Permit to Use. The use permit will prescribe requirements as to a connection manhole, an industrial waste treatment plant or facility, or pretreatment, all to insure compliance with the District regulations as to characteristics, quality and quantity of sewage and industrial waste. Such requirements should be set forth in the permit.

(3) Surcharges for Use Permit. The District hereby establishes the quantity of twenty thousand (20,000) cubic feet of sewage or industrial waste per month per acre of real property served as the maximum allowable effluent to be discharged into the District's sewerage facilities without the payment of surcharges. Each user discharging more than twenty thousand (20,000) cubic feet of sewage or industrial waste per month per acre shall be charged Twelve Dollars ($12.00) per one thousand (1,000) cubic feet or any portion thereof in excess of the twenty thousand (20,000) cubic feet maximum. Measurements may be required by the permittee, or permittee's effluent may be considered equivalent to the water (excepting irrigation water) purchased by permittee. Permittee upon demand shall provide District with his or its water usage records and District shall bill excess users of the system monthly based upon the charges set forth herein. In addition to said charges, users may also be charged fees for increased development in accordance with Chapter 6.05.

(d) Suspension or Revocation of Use Permit. The permit to use may be suspended or revoked if a permittee is acting in violation of any provision of the permit or of the ordinances, rules or regulations of the District thirty (30) days after receiving a formal written notice of such violation and a demand for correction thereof from the District. Such formal written notice shall be given only upon recommendation of the General Manager. Appropriate due process shall be provided before such actions are taken, and the Board of Directors shall provide for a hearing if requested in a timely manner.

(e) Violation. For each day or part of a day a permittee whose permit has been suspended or revoked continues to discharge sewage or industrial waste into a District sewerage facility in violation of the permit or of the ordinances, rules or regulations of the District, he or it shall be charged as a civil penalty the sum equal to ten (10) percent of the fixture fee charges per day. No formal written notice of violation shall be authorized unless the General Manager of the District has first given an informal written notice of violation to the subject permittee at least thirty (30) days in advance of action of the Board of Directors. The same noticing procedure set forth hereinabove shall apply for intermittent or sporadic violators and in lieu of a suspension of permit, the Board of Directors may impose a civil fine in accordance with the District's administrative citation provisions per day or any part of a day for intermittent violations. The amount of the fine may be directly related to increased handling costs occasioned to the District by reason of such violations and/or damage caused to the sewerage facilities of this District by such violations. In such cases the formal written notice of violation shall set forth the fine to be imposed for violations after the thirty (30) day correction period.

(f) Criminal Penalty. Any person, firm or corporation that connects or discharges to District's sewerage system without a valid connection permit or other legal right shall also be guilty of a misdemeanor and punishable as provided in Chapter 1.02.010 of this Code for each day's violation.

(g) Procedure to Acquire Permit. An applicant for a connection permit or his agent shall make application on a form furnished by the District. The permit application shall be supplemented by such plans, specifications or other information considered pertinent in the judgment of the General Manager of the District. The permit fee and charges as hereinafter described shall be paid to the District at the time the permit application is filed.

(h) Disposition of Charges. All charges established under this Article, when collected, shall be deposited in the appropriate fund and accounted for in accordance with the law.

(i) Insurance. Applications for a connection permit shall be accompanied by proof of insurance of at least One Million Dollars ($1,000,000.00) for commercial general liability, with underground coverage, and any automotive coverage. Applicants shall also provide proof of workers compensation coverage. The commercial general liability coverage shall name the District and its officers, agents and employees as additional insureds and District reserve the right to require an endorsement naming District as an additional insured. Such coverage must provide that it is not to be cancelled except upon thirty (30) days notice to District. District also reserves the right to require that the insurance company providing the commercial general liability policy has a Best Key Guide rating of at least A-:VII and is an admitted carrier in the State of California. Contractors performing work pursuant to a contract with the District shall comply with the insurance requirements of the contract documents.

(j) Bonds. For any sewer work that will be accepted as part of District's system, a performance bond and a labor and materials bond shall be required to be maintained on District's forms as a condition of permit issuance.

Section 6.04.070. Permit Charges. Before any connection permit shall be issued, the applicant shall pay to the District or its agent the charges specified in the District resolution establishing fixture fees:

(a) Fixture Fee Permit Charges, Plumbing Unit. A charge per fixture shall be collected from new construction as follows:

FIXTURE	FIXTURE FEE
Bathtub	$34.50
Laundry Tub or Washer	$34.50
Shower	$34.50
Sink, bar	$17.25
Sink, Kitchen	$34.50
Wash Basin	$17.25
Wash Basin (Set)	$34.50
Water Closet (Toilet)	$103.50
Bidet	$34.50
Dental Units	$17.25
Drinking Fountains	$17.25
Floor Drains	$34.50
Interceptors for Grease, Oil, Solids, Etc.	$51.75
Interceptors for Sand, Auto Wash, Etc.	$103.50
Laundry Tub or Washer (Self Service)	$51.75
Receptors	$51.75
Shower, Gang - Per Head	$17.25
Sinks, Bar-Commercial	$34.50
Sinks, Commercial or Industrial	$51.75
Sinks, Floor	$17.25
Sinks, Flushing Rim	$103.50
Sinks, Service	$51.75
Swimming Pool	$190.00
Urinals, Pedestal	$103.50
Urinals, Stall	$34.50
Urinals, Wall	$34.50
Urinals, Wall Trough	$51.75

(b) Connection Charge for Mobile Homes. For each mobile home parking space in any mobile home park the sewer connection charge shall be calculated at twelve (12) fixture units, at $23.00 per fixture unit.

(c) When Charge Is to Be Paid. Payment of connection permit charges shall be required at the time of the issuance of the connection permit, and no connection shall be made until said permit has issued showing compliance with District regulations and specifications. For that portion of the District within the City of Newport Beach and within the unincorporated area of the County of Orange, said fee shall nevertheless be paid through the offices of the Costa Mesa Sanitary District, 628 West 19th Street, Costa Mesa, California.

(d) Schedule of Charges. A schedule of charges specified herein will be on file in the office of the Clerk of the District and in the office of the Costa Mesa Sanitary District.

(e) Interpretation of Permit Regulations. If the factual situations presented do not follow precisely within the rules herein promulgated in this Article, the Board of Directors shall interpret them in a reasonable manner and consistent with the intent of this Chapter. In making such interpretations, the Board shall be guided by the policy of the District to base fees and charges in accordance with the benefits and uses supplied by the District. Those receiving the greatest benefit and most use of the facilities provided by the District shall proportionately bear more of the costs and expenses of the District.

Section 6.04.080. Fees. Certain fees established by the District, including, but not limited to, plan check, inspection, permit and annexation fees, shall be established by separate resolution.

(a) Permit Fee

Permit Fee	$120.00

(b) Plan Check and Inspection

Existing lateral	$570.00
New lateral	$640.00
New manhole to property line	$1,415.00
Construction of new facilities for dedication to the District	$10.00 per linear foot

(c) Annexation Fee. The Costa Mesa Sanitary District share of the annexation fee is $2,500.00 and the total fee shall include the appropriate charges from the Local Agency Formation Commission, the State Board of Equalization and the County of Orange.

The District may charge actual additional costs incurred in annexation which may be caused by, but not necessarily limited to, annexation elections, the expenses of public hearings in no consent annexations, litigation challenging the validity of Board action in the approval of annexations and such other reasonable costs which may be incurred over and above the permit fee provided for in this Article and subsection. Additional assessments for annexation may be imposed by the District for costs and expenses incurred by the District which are of an unusual nature not normally incurred in the course of an annexation or any additional cost or expense incurred by the District to correct any error or misrepresentation made by any applicant to the District regarding any proposed annexation. No refund will be made to any applicant abandoning any annexation where said abandonment is not attributable to any fault of the District.

(d) Connection Fee. The permit fee of $120.00 shall be charged where applicant wishes to connect to and use District facilities without construction of improvements. The fee shall be charged in any case where District administrative and inspection services are required. *(Ord. 75, 2010) (Reso. 2010-777, 2010)*

Section 6.04.090. <u>Penalties and Surcharges for Violations</u>. Permits Subsequently Obtained. Any person or public corporation connecting to a District sewerage facility or connecting to a sewerage facility which discharges into a District sewerage facility without first having obtained a permit as herein provided shall be charged double the amount hereinabove described for his or its permit.

Section 6.04.100. <u>Funds</u>. All of the monies collected in this Chapter shall be deposited, used and accounted for in accordance with the law by which those monies were collected.

Section 6.04.110. <u>Other Agency Fees</u>. In addition to those fees provided elsewhere in this Code, there shall be established and collected the following fees, the amount of which shall be determined by the agency for which they are collected:

(a) Any fee collected for and remitted to the Orange County Sanitation District.

(b) State Board of Equalization annexation filing fees collected for and remitted to that agency.

(c) County Surveyor for the County of Orange fee collected for and remitted to that agency for annexation plan check.

(d) Fees collected and remitted to Orange County Local Agency Formation Commission.

(e) Any other fee required to be collected and remitted to any other governmental agency as a condition to annexation or use of said governmental agency's facilities. *(Ord. 20, 1989)*

Section 6.04.120. Fee Changes. All of the fees established by this Ordinance may be increased, decreased, or abolished, or otherwise modified at any time by resolution duly adopted by the Board of Directors of the District and said resolution shall have the same force and effect when adopted as though this Ordinance has been amended to provide said changes. *(Ord. 20, 1989)*

Section 6.04.130. Annexation Requirements. (a) When Deemed Annexed. Except as hereinafter provided, no sanitary sewer service, including residential trash disposal service, shall be provided to any applicant for service unless and until said applicant shall have applied for and been approved for annexation to the District. Approval shall be deemed complete when approved by the Local Agency Formation Commission.

(b) Exceptions: Sanitary sewer service, and trash collection, may be provided by contract to applicants for service without annexation to the District, however contracts for service may be entered into by the District only on those parcels lying in County territory or within the geographical limits of an incorporated city other than the City of Costa Mesa and after obtaining LAFCO's prior approval if required by state law. All parcels lying within the geographical limits of the City of Costa Mesa will be served only after annexation to the District as heretofore set forth. *(Ord. 20, 1989)*

Section 6.04.140. Affordable Housing Priority. (a) In accordance with Government Code Section 65589.7 or any successor statute, the District shall ensure that developments that contain an affordable housing component shall be provided with a sewer connection if the applicant complies with all District laws and regulations unless the Board makes findings that there is insufficient collection capacity, that the District is under an order that no further connections be allowed, or unless the applicant fails to comply with District laws or to enter into an agreement with District to comply with such laws. District shall review the relevant housing elements at least every five years to determine that sufficient collection capacity exists.

(b) State law shall be referred to for all definitions and to more fully describe District's obligations under said law. *(Ord. 56, 2006)*

Section 6.04.150. Enforcement. In addition to any other remedies that may exist, the provisions of this Ordinance may be enforced by civil action at law and/or by injunction. In this connection these regulations shall be construed as a contract by the Costa Mesa Sanitary District and each permittee." *(Ord. 76, 2010)*

Chapter 6.05 - Increases in Density/Development

Section 6.05.010. Purpose. The District has determined its capacity rates and charges in a capital facilities study based on projections made according to development density based on the applicable local agencies' general plan and zoning laws. Changes in those laws that allow an increase in density or development may cause adverse impacts on the District and surcharge its system. Accordingly, the District does hereby determine that it may require a developer or owner to participate in the cost of providing additional sewer capacity through either additional construction or the payment of fees commensurate with this increased burden. *(Ord. 21, 1989) (Reso. 94-555, 1994)*

Section 6.05.020. Increased Fees or Construction. Any owner or developer of such proposed development that will cause an increased burden to the sewage system above the District's projections contained in its capital facilities study based on then-current zoning, may be required to pay for such increased surcharge on the District's system or may be required to oversize or provide additional appurtenances at its cost. *(Ord. 21, 1989) (Reso. 94-555, 1994)*

Section 6.05.030. Analysis. When the District Engineer determines that there will either be (a) an increase in plumbing fixtures, or (b) an increase in density that will materially increase the use of District's sewerage system over and above that projected in the District's capital facilities study, the owner/developer shall deposit a check in the sum of one-thousand dollars ($1,000) as an advance to pay for the costs of a study to determine the impact on District's system and what the owner/developer should fairly pay for the increase in density or development. Said sum shall be a deposit and the District will provide an accounting of the funds and any refund due. Should the deposit not be sufficient to complete the study, the owner/developer may be required to deposit further sums . *(Ord. 21, 1989) (Reso. 94-555, 1994)*

Section 6.05.040. Justification. Any additional fee or construction required shall be justified as follows:

(a) Any money collected shall not exceed the cost of serving the additional density or development.

(b) Any additional construction of sewerage facilities shall have been made necessary by the increased density/development, unless the developer is provided with a reimbursement agreement for any part not caused by the proposed development

(c) Any money collected for the additional development must not exceed the proportional cost of providing the capital facilities to serve the additional development.

(d) No part of any money collected is used for any other purpose but for capital sewer facilities and related costs. *(Ord. 21, 1989) (Reso. 94-555, 1994)*

Section 6.05.050. Fund Established. Any money collected for such purposes shall be kept in a separate fund and not in the District's general fund and shall be accounted for in accordance with state law, including refunding any excess held over five years. *(Ord. 21, 1989) (Reso. 94-555, 1994)*

Section 6.05.060. Exceptions. This Chapter does not apply to any money collected or facilities installed for which the developer is given a reimbursement agreement. *(Ord. 21, 1989) (Reso. 94-552, 1994; Reso. 94-555, 1994)*

Section 6.05.070. Additional Charges. District may require that an owner or developer additionally pay engineering, inspection and plan checking and other costs made necessary by its project. An owner or developer may also be required to pay the costs of acquisition of additional right of way or easements made necessary by the project. *(Ord. 21, 1989) (Reso. 94-555, 1994)*

Chapter 6.06 - Annual Sewer Charges

Section 6.06.010 **Annual Charges.** Pursuant to an ordinance heretofore adopted, the Board has adopted the procedure set forth in Health and Safety Code Section 5473 for the collection of liquid waste charges on the tax roll on an annual basis along with the general taxes collected by the tax collector. *(Ord. 30, 1999)*

Section 6.06.020. **Substantive Requirements for Charges.** Before said charges are confirmed, the Board shall ensure that the charges meet the substantive requirements imposed on such charges by California Constitution, Article XIIIC:

1. Revenues derived from the fee or charge have not exceeded the funds required to provide the property related service.

2. Revenue from the fee or charge is not being used for any purpose other than that for which the fee or charge is imposed.

3. The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership does not exceed the proportional cost of the service attributable to the parcel.

4. The fee or charge is not imposed for service unless the service is actually used by, or immediately available to, the owner of the property in question.

5. No fee or charge is being imposed for general governmental services such as police, fire, ambulance, or libraries, where the service is available to the public in substantially the same manner as it is to property owners.

Section 6.06.030. **Procedural Requirements.** Pursuant to California Constitution Article XIIIC, before said charges are confirmed for a new or increased charge, a public hearing shall be held in which a protest hearing is conducted. Notice of such hearing shall be mailed to all owners of record that are the subject of the charge, and the hearing shall also be published in accordance with law. If a majority protest is received, that charge shall not be imposed. *(Ord. 30, 1999)*

Section 6.06.040. **Filing of Report With Auditor.** After the charges have been confirmed, the clerk shall file a copy of the report with the auditor in the manner required by Health and Safety Code Section 5473.4. *(Ord. 30, 1999)*

Chapter 6.07

Grease Control

Section 6.07.010. Purpose. The purpose of these regulations is to exercise the District's authority to protect the public health and safety by preventing sewer spills. The Board has determined that there is substantial evidence that grease and similar products accumulate in the sewer lines causing back-ups. The Orange County Grand Jury has made findings that these sewer spills largely can be prevented if local agencies with authority adopt effective grease regulations.

The State Water Resources Control Board, through Order No. 2006-0003, mandates that the district comply with said order and implement regulations for its sanitary sewer systems. These regulations are intended to implement and comply with the State Order.

Section 6.07.020. Definitions. For purposes of this chapter, the following definitions shall apply:

(a) FOOD Service Establishment (FSE)" shall mean any entity, including its members, operators and employees, located within the boundaries of the District, engaged in the business of storing, preparing, serving, manufacturing, packaging, or handling food for sale to other entities, or for consumption by the public as defined in Health and Safety Code Section 113789, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a Type 1 or Type II hood provided in the California Mechanical Code. A limited food preparation facility is not considered a Food Service Establishment when it is engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

(b) "Grease" or "FOG" shall mean and include any waste containing excessive quantities or concentrations of dispersed biodegradable oils, fats, and greases, such as lard, tallow or vegetable oil.

(c) "Grease Control Device" (GCD) shall mean any Grease Interceptor, Grease Trap or other mechanism, device, or process, which attached to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to its discharge into the sewer system. "Grease Control Device" also includes any other District approved method to reduce FOG.

(d) "Grease Interceptor" shall mean a multi-compartment device that is required to be located, according to the California Plumbing Code, between a Food Service Establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. Grease Interceptors must be cleaned, maintained, and have the FOG and solids removed and disposed of in accordance with District's best management practices guidelines. Grease Interceptor includes a Gravity Grease Interceptor.

(e) "Grease Trap" shall mean a Grease Control Device that is used to serve individual fixtures. Grease Traps must be cleaned, maintained, and have the FOG and solids removed and disposed. A Grease Trap is also referred to as a Hydromechanical Grease Interceptor. A Grease Trap may only be used when the District determines that the use of a Grease Interceptor or other Grease Control Device is impossible or impracticable.

Section 6.07.030 New Construction-Interceptors Required.

(a) The District does not have jurisdiction within structures but does regulate sewer connections and sewer construction. All new commercial construction must have a grease interceptor that has been approved by the District Engineer unless the developer demonstrates, to District Engineer's satisfaction, that such a device is not necessary based on engineering findings which are set forth in writing.

(b) A developer may be granted an exemption from the Grease Interceptor requirement if the District Engineer makes written findings that a Grease Trap or other Grease Control Device will be as effective, or more effective, than a Grease Interceptor.

Section 6.07.040 Prohibition. Every owner, tenant and persons using property shall have a duty not to cause, permit or allow the accumulation of grease in the District's sewer line so that sewage spills may occur. Such persons shall use reasonable methods to reduce grease accumulation in the District's sewer lines including but not limited to reducing or eliminating the grease that is deposited in the sewer and utilizing enzymes and similar products that prevent grease build-up. No person shall discharge grease into the sewer system so as to cause an accumulation in the District's lines so as to substantially contribute to the possibility of a sewage overflow.

Section 6.07.050 Permit required. No Food Service Establishment shall discharge into the District's system without obtaining a permit from the District describing the business operations and discharge and any FOG prevention measures being undertaken or to be undertaken to reduce the discharge of FOG into the District's system in accordance with this chapter.

Section 6.07.060 Abatement. Provided District can prove that a person, firm or corporation caused grease build-up so that a District line or appurtenance is damaged or so that a sewer overflow occurs, district may charge the responsible person for that damage and for the abatement costs thereof. District shall first provide the ostensibly responsible person with a copy of the evidence that forms the basis of the proof and a copy of this chapter. Said responsible person shall have an appropriate amount of time to respond to said charges in a hearing in which appropriate due process will be provided. Generally, at least ten days notice of the hearing shall be given. If possible, the responsible person shall be given notice at the time of the sewer overflow or damage if the person is believed to be the cause at that time. The responsible person shall also be provided with a copy of the charges incurred to date before the hearing if those are available.

Section 6.07.070 Retrofitting. In cases in which there is an imminent danger of future sewer spills, the Board may order that a property owner or other responsible person install a sewer interceptor or other appropriate device to protect the District's system. Said order shall not be made unless the property owner has been given notice of the proposed action and an opportunity to address the Board of Directors regarding the proposed action. Any order to retrofit shall contain a finding that the action was necessary to protect the public health, safety and welfare, which are threatened by future sewer spills that are otherwise likely."

Section 4. Any person, firm or corporation violating the provisions of this ordinance shall be guilty of a misdemeanor and punishable as provided in Chapter 1.02 of the District's Operations code.

Section 5. Should any part, clause or section of this ordinance be declared by any court of competent jurisdiction to be invalid, the remaining provisions of this ordinance shall nevertheless be and remain in full force and effect and the Board of Directors of the Costa Mesa Sanitary District of Orange County, California, hereby declares that each and every section, clause, provision or part of this ordinance would have been adopted and made a part of this ordinance without the adoption of any portion thereof and that the invalidity of any part or provision hereof shall not in any way affect the validity or enforcement of the remaining provisions of this ordinance that may stand on their own. *(Ord. 81. 2010)*

Chapter 6.8

LEGAL AUTHORITY TO COMPLY WITH WASTE DISCHARGE ORDER

6.8.010 Purpose. The State Regional Wastewater Quality Control Board–Santa Ana Region has issued Waste Discharge Order No. R8-2002-0014 ("WDR") which applies to Orange County government entities within the Santa Ana watershed. That WDR required the District to adopt a Sewer System Management Plan and a grease (fats, oils and grease) control ordinance requiring commercial food establishments to install and maintain sewer interceptors, and requires the District to also establish other legal authority to preserve the integrity of the sewer system and to prevent sewer system spills. This Chapter shall memorialize the District's efforts to comply with the WDR and provide a reference for compliance. This legal authority shall act in conjunction with the District's Sewer System Management Plan (SSMP).

6.8.020 Infiltration Control. a) The District has established its SSMP and has videotaped the system and determined its condition is sound. The District has also established maintenance and rehabilitation schedules and a Capital Improvement Program for future improvements. The District has thus ensured that District owned sewer lines are inspected and maintained for infiltration control.

(b) With respect to privately owned sewer laterals, District Operations Code Section 6.02.020 imposes the obligations for such maintenance on the private property owners and imposes a duty on the owner to maintain that sewer lateral in a safe, sanitary and unobstructed condition. By ordinance, the owner must maintain such laterals in good working order. The District has additionally promoted sewer lateral maintenance by publicity campaigns designed to inform property owners of their responsibility and by providing advice on how to achieve that objective.

(c) In accordance with the authority conferred on the District pursuant to Health and Safety Code Section 6520, all property within the District needing sewer service shall be connected to the District's system. In accordance with Health and Safety Code Section 6520.1, no person may connect any sewer system to the District's system or cause any flows into District's sewer system except pursuant to a lawful connection.

6.8.030 Construction Standards. The District's construction standards set forth in District Operations Code Chapter 6.01 establishes construction standards designed to maintain the integrity of the system. The sewer notes set forth in the District's standard plans and specifications for the construction of sanitary sewers provides additional standards.

6.8.040 Installation, Testing and Inspection. The District requires that all new or rehabilitated sewer installations be tested and inspected pursuant to the provisions of Title 6 of the District Operations Code and a permit is required for such connections.

6.8.050 Grease. The District has adopted its fats, oils and grease ordinance set forth at Chapter 6.07 of this Code.

6.8.060 Pretreatment. The District has recognized the Orange County Sanitation District as the publicly operated treatment works responsible for pretreatment compliance and has incorporated such pretreatment requirements set forth in 40 C.F.R 403.5 in both its SSMP and in its standard sewer permit. (*Ord. 46, 2004)*

Title 7

Chapter 7.01 - Trash Regulations

Section 7.01.010. Purpose. The purpose of this Ordinance is to implement the District's authority to provide for the collection of trash, garbage, rubbish and other waste in the waste stream, and to recover and provide for the recapture and recycling of such parts of the waste stream. A further purpose is to provide for the public health and welfare and sanitary streets by requiring the waste containers be stored on the property out of view except for reasonable periods of time for collection. *(Ord. 27, 1997)*

Section 7.01.015. District's Authority. The Health and Safety Code has given sanitary districts the authority to collect all waste and garbage within the District. The District has determined to only collect residential trash at this time but reserves unto itself the right to regulate other trash collection in the future. *(Ord. 27, 1997)*

Section 7.01.020. Exclusive Franchise. The District has awarded an exclusive franchise for the collection of all residential trash within its boundaries. *(Ord. 27, 1997)*

Section 7.01.025. Residential Limitations. District's trash collection services are limited to residential service. Residential units will be served notwithstanding the zone that said property is located in as long as the property is used for residential purposes and utilizes curbside service. *(Reso. 94-540, 1994; Reso. 94-547. 1994)*

Section 7.01.030. Rubbish Removal - Scavenging prohibited. The District and its duly authorized agents or any contractor with whom the District may at any time enter into a contract or franchise therefor, and the agents, servants, and employees of said contractor while any said contract or franchise is in force shall have the exclusive right to gather, collect and remove all waste material from all residential premises served by the District and no other persons than those above shall gather, collect, and remove any trash or waste material or convey or transport any trash or waste material in or along or over any public street, alley, or highway in the District, or take any waste material from any receptacle in which the same has been placed for collection or removal or interfere with or disturb any such receptacle or remove any such receptacle from any location where same is place by the owner thereof; provided, however, that nothing in this section shall be deemed to prohibit the occupant of any dwelling house from himself removing any trash or waste material accumulated on the premises occupied by him as a dwelling house and disposing of the same in a lawful manner, or to prohibit any person from gathering, collecting and removing from the premises occupied by him any trash or waste material or other objects of debris considered to be large items. Once trash or waste material has been placed in a container and placed curbside for collection, no person shall scavenge or remove any item from said container except for the District's contractor/franchisee. *(Ord. 27, 1997)*

Section 7.01.040 **Containers.** (a) Containers used for residential collection shall be those provided by the District through its franchisee. Said containers shall be standardized to allow for fully and semi automated collection as determined and provided by the District. Except as hereinafter provided, no person may use any other type of container after the standardized containers are provided.

(b) The combined weight of the container and contents for collection shall not exceed 150 pounds.

(c) All trash (as defined in this Code along with exclusions) must be placed inside the container so that the lid can shut to keep out flies and other pests. Trimmings must be cut so that they fit completely within the container and so that the container lid will shut. Residents shall obtain additional containers from the District as needed to comply with this requirement. Trash should not be jammed in so that it prevents emptying of the container.

Section 7.01.050. **Container Ownership/Care**. The containers are owned by the District's franchise. It is unlawful to damage or deface the containers. It is unlawful to mark on the containers. Each container has a registration number on it and is assigned to a residence. Graffiti, vandalism or other damage to the containers should be reported to the District immediately. *(Ord. 57, 2007)*

Section 7.01.054 **Existing Development**. Residents may request additional containers to insure all trash fits inside the containers with the lids closed. Residents shall contribute actual cost paid by the District per container for all additional containers requested, except as provided below:

(a) No charge shall be imposed if new residents move to a residence where the trash containers have been removed.

(b) No charge shall be imposed for exchanges of containers.

(c) No charge shall be imposed if the occupants of the residence demonstrate a hardship based on disability or economic factors and have submitted a confidential declaration providing those facts.

(d) No charge shall be imposed if a resident with only one container requests one additional container.

The containers shall remain the property of the District. *(Ord. 49, 2005)*

Section 7.01.060 Placement of Containers. Trash containers shall be placed in the street with the wheels against the curb. The trash containers shall be placed where the same is accessible to be collected and arranged in a manner so as to facilitate the loading on the collection truck. Except where practical difficulties exist, all trash containers shall be placed so as to not create drainage problems with the gutters. Placement of containers is also subject to compliance with City or County ordinances. *(Ord. 37, 2001) (Ord. 49, 2005)*

Section 7.01.070 Permitted Trash/Prohibited Materials.

(a) The following are permitted to be placed in the containers for collection:

1. Trash not prohibited in subsection (b) hereof may be placed in the container. Loose trash shall be placed in a secure wrapping, included but not limited to sweepings or ashes.

2. Tree trimmings, grass, and other gardening rubbish may be placed in the containers provided the items are cut so that they fit easily within the container for removal purposes.

(b) The following are prohibited from being placed in the containers for collection:

1. Hazardous materials including paint, motor oil, fertilizer, batteries, and pesticides.
2. Liquid waste.
3. Medical waste including syringes.
4. Construction debris, sod, concrete, rocks, dirt, manure or lumber.
5. "E-Waste" to include television sets and computer monitors and similar devices which contain cathodic ray tubes with lead or other harmful matter.

(c) Large items may be collected at certain times each year through special collection programs. These items would include furniture, appliances and other such large items. Other special programs may cover Christmas trees, used oil, used syringes and tires. *(Ord. 37, 2001)*

Section 7.01.080. Removal of Trash Containers. Residential trash containers shall be removed from the curb by midnight the day of trash collection and shall be stored in the rear or side yard of the property so as to be out of view from the street. Such containers shall be placed behind the curb for collection no earlier than 5:00 p. m. on the evening before the scheduled collection day. *(Ord. 27, 1997)*

Chapter 7.02 - Annual Trash Charges

Section 7.02.010. Annual Charges. Pursuant to an ordinance heretofore adopted, the Board has adopted the procedure set forth in Health and Safety Code Section 5473 for the collection of solid waste charges on the tax roll on an annual basis along with the general taxes collected by the tax collector. *(Ord. 30, 1999)*

Section 7.02.020. Substantive Requirements for Charges. Before said charges are confirmed, the Board shall ensure that the charges meet the substantive requirements imposed on such charges by California Constitution, Article XIIIC:

1. Revenues derived from the fee or charge have not exceeded the funds required to provide the property related service.

2. Revenue from the fee or charge is not being used for any purpose other than that for which the fee or charge is imposed.

3. The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership does not exceed the proportional cost of the service attributable to the parcel.

4. The fee or charge is not imposed for service unless the service is actually used by, or immediately available to, the owner of the property in question.

5. No fee or charge is being imposed for general governmental services such as police, fire, ambulance, or libraries, where the service is available to the public in substantially the same manner as it is to property owners. *(Ord. 30, 1999)*

Section 7.02.030. Procedural Requirements. Pursuant to California Constitution Article XIIIC, before said charges are confirmed for a new or increased charge, a public hearing shall be held in which a protest hearing is conducted. Notice of such hearing shall be mailed to all owners of record that are the subject of the charge, and the hearing shall also be published in accordance with law. If a majority protest is received, that charge shall not be imposed. *(Ord. 30, 1999)*

Section 7.02.040. Filing of Report With Auditor. After the charges have been confirmed, the clerk shall file a copy of the report with the auditor in the manner required by Health and Safety Code Section 5473.4. *(Ord. 30, 1999)*

Title 8

Chapter 8.01 - Recycling

Section 8.01.010. Diversion Requirements. Pursuant to the State's Integrated Waste Management Act (Public Resources Code Section 41780 et seq.) each city must divert and reduce the volume of solid waste generated within a city. *(Ord. 30, 1999)*

Section 8.01.020. Recycling. The District is committed to recycling and may implement a variety of programs to encourage and promote recycling and to assist in reducing the waste stream. *(Ord. 30, 1999)*

Section 8.01.030. Recycling Committee. The Board may appoint a recycling committee composed of two Board members and staff who shall meet periodically and report back to the Board on matters pertaining to recycling. *(Ord. 30, 1999)*

Section 8.02.010. Definitions.

A. "Recycling Material" means a material which would otherwise become residential, industrial or commercial solid waste, which can be source separated, collected, processed, and returned to the economic mainstream in the form of raw materials or products.

B. "Recycling" means the process by which recovered products are transformed into new products, and includes the collection, separation, recovery, and sale or reuse of metals, glass, paper, cardboard, plastics and other materials.

Recycling materials such as glass (all colors), aluminum and metal cans, cardboard, newspapers, magazines, mixed paper, and plastics (PET (marked with "1"), HDPE (marked with "2"), PVC (marked with "3"), LDPE (marked with "4"), PP (marked with "5"), PS (marked with "6"), Other (marked with "7")).

Section 8.02.020 Permitted Recycling Materials. (a) The following are permitted to be placed in the containers for collection:

A. Glass of all colors
B. Aluminum and metal cans
C. Cardboard
D. Newspapers, magazines and mixed paper
E. Plastics that include the following types:
    1. Polyethylene Terephthalate PET (marked with #1)
    2. High Density Polyethylene HDPE (marked with #2)
    3. Polyvinyl Chloride PVP (marked with #3)
    4. Low Density Polyethylene LDPE (marked with #4)
    5. Polypropylene PP (marked with #5)
    6. Polystyrene PS (marked with #6)
    7. Other (marked with #7)

Section 8.02.030 Processing Recycling Materials. District's franchisee shall divert recyclable material from the waste stream and provide documentation on the amounts so diverted.

Section 8.02.040 Recycling Revenue. District franchisee shall make available to District its audited financial statement on an annual basis showing all revenue derived from recycled materials from District. Such statement shall include internal trail reports supporting those financial statements. Such financial statements shall not become public record and District will use its best efforts to protect such information from being available to competitors. Recycling revenue will be considered in setting rates and in achieving rate stabilization.

Title 9

Chapter 9.01 – Sewer and Trash Charge Exemptions and Reductions

Section 9.01.010. Sewer Exemptions Established. The District has established that the following types of property shall be entitled to an exemption from assessment for sewer service charges:

(a) Undeveloped or vacant parcels.

(b) Developed parcels that do not require sewer service, such as parks or parking lots.

(c) Parcels currently begin lawfully served by septic tank or cesspool. *(Reso. 94-543, 1994)*

Section 9.01.020. Sewer Assessment Reductions. The Board has determined that a reduction in assessment may be appropriate for commercial, industrial and other property that is assessed based on floor area in the following situations:

(a) If the floor area is only used for storage or warehouse space, and

(b) The floor area assessed has no floor drains or connections to District's facilities.

It shall be the applicant's burden to establish that such an assessment reduction is appropriate. *(Reso. 94-543, 1994)*

Section 9.01.030. Trash Collection Exemptions. The following types of property qualify for an exemption from the trash collection assessment:

(a) Property that has been served by a private hauler provided that the property has never been served by the District's franchise contract hauler.

(b) Undeveloped property.

(c) Parcels developed in such a way that trash is not produced nor collected such as parking lots and parking garages.

(d) Parcels that are developed and used in such a manner that the required frequency of collection exceeds that provided by the District's franchise hauler, such as apartments and common area developments.

(e) Any area served or to be served by the City of Newport Beach.

(f) Property developed in such a manner as to preclude curbside service.

(g) Property that is served by substandard streets so that a standard waste hauler truck cannot have ingress or egress.

(h) Projects using trash bin service with no provision for individual trash container pick up.

(i) An appropriate organization represents that the District cannot provide trash collection service and provides the District with a contract for outside service and provides District with assurances that such outside service will be maintained.

(j) Other circumstances that the Board may determine appropriate for granting an exemption based on the fact that the property should not be charged for service.

Any exemption granted pursuant hereto may be revoked if the Board determines that the facts have changed or were not as represented. Exemptions run with the land.
(Reso. 94-547, 1994)

Chapter 9.02 – Sewer and Trash Refunds

Section 9.02.010. Assessment Errors. The Board is aware that despite best efforts to assess property fairly and accurately, that errors can occur that would justify providing a refund for amounts that the Board might determine were improperly assessed. *(Ord. 30, 1999)*

Section 9.02.020. Gift of Public Funds. The Board also is aware that it is constitutionally prohibited from making a gift of public funds, which is an amount not legally owed. *(Ord. 30, 1999)*

Section 9.02.030. Statute of Limitations. California law has both statutes of limitation and claim filing requirements that must be met before a refund may be made. *(Ord. 30, 1999)*

Section 9.02.040. Refund Policy. In light of the above, the Board does hereby establish the following as its refund policy for sewer and trash assessments:

(a) For all claims for refunds for sewer or trash service for which a special rule (set forth below) does not apply, refund procedures and time limitations will be governed by the Tort Claims Act (Government Code Section 900 et seq.) including, but not limited to, the requirements that the claimant present a written request for a refund from the Board within one year of the accrual of the cause of action. Refunds will be allowed if the claimant's request satisfies the procedures of the Tort Claims Act and if the claimant establishes that his or her claim is meritorious.

(b) For amounts "paid under protest", refunds may be allowed for up to four years provided that the procedures of the Health and Safety Code and Revenue and taxation Code were followed. (See Health and Safety Code Section 5472; Revenue and Taxation Code Sections 5097 and 5140 et seq.)

(c) Persons who have paid sewer service fees but who have received no service and have not been connected to the District's system shall be eligible for a refund depending on when the fees were collected as follows:

(1) If the fees were collected before January 1, 1992, there is no statute of limitations and the claimant may submit a claim for such amount that he can prove that he paid and for which he received no service.

(2) If the fees were paid after January 1, 1992, a claim must have been filed within 180 days of the date of the payment.

(3) Subsections (a) and (b) above only apply to fees collected and do not apply to sewer assessments. (See Government Code Section 53082.) *(Reso. 96-584, 1996) (Ord. 44, 2004)*

Title 10

Chapter 10.01 - Risk Management

Section 10.01.010. SDRMA. The District is a member of the Special District Risk Management Authority (SDRMA) which provides the District with insurance protection for property loss, general liability and employee's errors and omissions, boiler and machinery and public officials bond. (*Policy Statement 2/10/1989) (Reso. 94-539, 1994)*

Section 10.01.020. Safety Measures. The Board has determined that prudent planning and risk management require the creation of a safety/loss control committee and the adopting of a safety manual for the use of District personnel in conducting District business. *(Reso. 94-539, 1994*)

Section 10.01.030. Safety/Loss Control Committee. A safety/loss control committee is created which is comprised of the General Manager and such other persons as he/she shall designate as being appropriate for such purposes. The safety/loss control committee shall review District safety/loss control issues and provide analysis and direction on ways to improve safety. The committee shall meet with such frequency as the General Manager shall determine is appropriate but no less frequently than quarterly. Minutes of said meetings shall be kept. *(Reso. 94-539, 1994)*

Section 10.01.040. Standards Adopted. The following standards are adopted by the Board, as they are presently published and as they may from time to time be amended, and the same shall be incorporated into the District's standard construction specifications:

(1) The Work Area Traffic Control Handbook (WATCH).

(2) The Manual of Warning Signs, Lights and Devices for Use in Performance of Work Upon Highways.

(3) State Labor Code Sections 6704, 6706 and 6707.

(4) The Construction Safety Orders (CAL/OSHA).

(5) The General Industry Safety Orders (CAL/OSHA).

(6) Standard Specifications for Public Works Construction (The Green Book). (Policy Statement 2/10/1989) (Reso. 94-539, 1994)

Section 10.01.050. Safety Manual Adopted. The safety manual prepared by the SDRMA, as the same may be amended from time to time, is adopted as the District's Safety Manual. *(Reso. 94-539, 1994; Reso. 94-546, 1994)*

Section 10.01.060. Claims Manual. The District being subject to the California Tort Claims Act, and the District being a member of the SDRMA has adopted the SDRMA Claims Manual as its procedures for processing claims against the District. *(Reso. 94-546, 1994)*

Section 10.01.070. Indemnification. The District shall indemnify and defend Directors, officers and employees from any claim, demand or liability provided that the conditions of Government Code Section 825 are satisfied. *(Ord. 30, 1999)*

Chapter 10.03

Emergencies

Section 10.03.010. Purpose. The purpose of this chapter is to provide for the preparation and carrying out of plans for the protection of persons and property within the District in the event of the emergency or disaster conditions hereafter referred to; the direction of the disaster organization; and the coordination of the disaster functions of the District with the City, County, OCSD and with all other public agencies, corporations, organizations and affected private persons.

Section 10.03.020. Definitions. For the purpose of this chapter, certain words and terms are defined as follows:

(a) "City" means the City of Costa Mesa or the City of Newport Beach;

(b) "County" means the County of Orange;

(c) "District" means the Costa Mesa Sanitary District;

(d) "OCSD" means the Orange County Sanitation District;

(e) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the State caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake or other conditions;

(f) "Local emergency" means the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a district, city, county or district and city or district and city and county, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake or other conditions.

(g) Other terms used herein shall have meanings as used in the California Emergency Services Act.

Section 10.03.030. Emergency Operations Plan (EOP). The District shall prepare, adopt, implement and revise when necessary an Emergency Operations Plan that establishes the emergency organization, assigns tasks, specifies policies, and general procedures, and provides for coordination of planning efforts of the various agencies and service elements utilizing the Standardized Emergency Management System (SEMS) and meeting the requirements established by the National Incident Management System (NIMS). The objective of this plan is to incorporate and coordinate all agencies and personnel within the district into an efficient organization capable of responding to emergencies affecting the sanitary sewer system.

Section 10.03.040. Emergency Operation Center (EOC) - Activation. The District's EOC shall be activated and shall function as an emergency respondent organization, only:

(a) Upon the declaration by the Governor of the state, or of persons authorized to act in his stead, of a "state of emergency" affecting and including the District;

(b) Upon the declaration of a "local emergency" by the Board of Supervisors of the County, or by persons authorized to act in its stead, affecting and including the District; or

(c) Upon the declaration of a "local emergency" by the City Council of a City within the District's boundaries, or by persons herein authorized to act in its stead.

(d) Upon the declaration of the District General Manager that additional resources are needed for a single incident occurring within the District.

Section 10.01.050. Emergency Operating Centers. Unless emergencies render the same impossible or unduly hazardous to safety, two emergency operating centers shall normally be maintained within the District; one of these at Headquarters (628 W. 19th Street), and the other at the Yard (174 W. Wilson Street).

Section 10.03.060. Director of Emergency Services. The General Manager of the District shall be the director of emergency services. In the General Manager's absence or inability to act the General Manager shall automatically be succeeded as director of emergency services by the officials and persons named for this purpose, and in the order specified, in the EOP of the District.

Section 10.03.070. Powers of Succession. Each person who shall succeed to each position or office as provided herein, shall succeed to all the powers and duties of the office succeeded to immediately upon such succession.

Section 10.03.080. Line of Succession for Board of Directors. The line of succession for the position of President during a state of emergency, local emergency or other condition of disaster, unless otherwise ordered by the Board of Directors, shall be Vice President followed by the Secretary and then the remaining Board of Directors in the order of their seniority.

Section 10.03.090. Brown Act. The Brown Act provides that the usual rules with respect to noticing meetings are altered when an emergency ours. For purposes of the Brown Act, Government Code, Section 54956.5 provides that in cases:

(a) involving a work stoppage, crippling activity or activity that severely impairs the public health and safety,

(b) of dire emergency as a crippling disaster, mass destruction, or threatened terrorist act that poses peril so that giving of notice may endanger the public health or safety, or

(c) as determined by a majority of the Board,

the Board shall provide such notice as may be required by the Brown Act, which may require one-hour notice as provided in Government Code Section 54956.5((b)(2).

Section 10.03.100. County Interaction. The District is signatory to the Operational Area Agreement of the County of Orange and Political Subdivisions. Such agreement coordinates the District resources and needs with the County's and other local government entities' and provides management in times of emergency through an Emergency Area Council and Executive Board. The standing subcommittee is the Orange County Emergency Management Organization (OCEMO). The District shall stay involved in OCEMO and maintain contact and other resource information. District's participation shall be pursuant to the Standardized Emergency Management System (SEMS) and its national counterpart (NIMS). (Ord 64, 2007)