

CASTROVILLE COMMUNITY SERVICES DISTRICT

ORDINANCE NO. 63

AN ORDINANCE CONCERNING RESPONSIBILITY FOR INSTALLATION
AND MAINTENANCE OF BACKWATER OVERFLOW PREVENTION
DEVICES

The Board of Directors of the Castroville Community Services District, Monterey County, California, ordains as follows:

Section 1. Authority. This ordinance is enacted pursuant to Sections 61000 and following and 25120 and following of the California Government Code.

Section 2. Findings.

A. This ordinance is considered for action by the Board of Directors at a regularly scheduled and noticed meeting. A summary prepared by the General Manager in consultation with the District's legal counsel, was published and a certified copy of the full text of the proposed ordinance was posted in the office of the District and on the District's web site at least five days prior to the Board meeting of August 19, 2014, and not less than three copies of the full text of the Ordinance and the rules, procedures, guidelines and requirements and standard plans and specifications for construction, installation and maintenance of backwater overflow prevention devices have been on file for use and examination by the public in the office of the District at least 5 days prior to the Board meeting of August 19, 2014. Certificates of publication and posting and availability are on file with the District.

B. The Board, in Ordinance No. 62, adopted rules, procedures, guidelines and requirements and standard plans and specifications for construction for water and sewer and storm drain service by the District. Standard Plan S-13 adopted by Ordinance No. 62 provides design and construction criteria for sewer facilities. The Notes on Standard Plan S-13 state requirements for back water valves.

C. The General Manager advises that the requirements for back water devices are not well known or understood by persons served by the District and that this lack of understanding creates compliance issues that could compromise public health. The General Manager therefore recommends that the Board adopt an ordinance incorporating the requirements of the Notes on the District's Standard Plan S-13, to aid in administration of the requirements.

D. The District's General Manager advises and the Board finds that it is important to the public health and safety that the requirements adopted by this Ordinance take effect immediately, to ensure healthful and safe water service by the District.

E. The District's legal counsel advises, and the Board finds, that adoption of this Ordinance does not have the potential to affect the physical environment and is not a project and is exempt from the requirements of the California Environmental Quality Act ("CEQA").

Section 3. Requirements and Exceptions for Backwater Overflow Prevention Devices.

3.1. Responsibility for Backwater Overflow Prevention Devices. All property owners shall install and maintain a backwater overflow prevention device on any sewer lateral that is connected, or is intended for connection to, the District's sewer system. The term "backwater overflow prevention device" shall include both Backwater Overflow Devices and Backwater Check Valves and Shutoff Systems, and any other devices the District may approve for such purposes. All backwater overflow prevention devices shall comport with the District Standard Plans as adopted by Ordinance No. 62 and shall be maintained so as to provide for their continuing function as designed.

3.2. New Lateral Installations or Alterations or Repairs to Existing Lateral Installations. No person shall install, alter, or repair a sewer lateral that is connected, or is intended for connection to the District sewer system without installing a backwater overflow prevention device of the type and in the manner prescribed in the District Standard Plans.

3.3. Maintenance Requirements. All backwater overflow prevention devices shall comport with the District Standard Plans and be maintained so as to provide for their continuing function as designed. All backwater overflow prevention devices shall be accessible at all times and shall be free from any obstructions, including, but not limited to, rocks, soil, vegetation, grass, trees, bushes, plants, landscaping, concrete, asphalt or other ground coverings that may impair the function of and accessibility to the devices.

3.4. Elevation Requirements. All backwater overflow prevention devices shall be installed at an elevation that protects the property from damage. It is the property owner's responsibility to either confirm that the backwater overflow prevention device is at the proper elevation, or to obtain competent assistance from a licensed plumber or contractor to confirm its proper elevation. If any subsequent modification of the property results in the backwater overflow prevention device being at an improper elevation, the property owner shall adjust the backwater overflow prevention device to the proper elevation. Should it be determined that property damage is sustained as the result of a backwater overflow prevention device located at an improper elevation, the property owner shall be responsible for any such damage.

3.5. Failure to Follow Backwater Protection Device Requirements. Any property owner whose property has no backwater overflow prevention device, or has a defective or improperly installed backwater overflow prevention device, shall be responsible for all damage that results from the lack of such a device, or the failure of the defective or improperly installed device to prevent such damage.

3.6. Liability for Failure to Install and Maintain Backwater Protection Device. Backwater overflow prevention devices are necessary to prevent overflow and backflooding, to protect the health and safety of District residents and to minimize the possibility of damage to property. The District and its officers, agents and employees shall not be liable for any injury or death to any person or damage to any property caused by the failure of a property owner to install a backwater overflow prevention device.

3.7. Exception to Requirement for Backwater Overflow Prevention Devices; Waiver and Assumption of Liability. A property owner who is required to install a

backwater overflow prevention device for a building connected to the District sewer system before the adoption of this Ordinance 63 may apply for an exception to the requirements herein to install such a device. If a property owner applies for an exception, the exception will be either granted or denied by the District. If the exception is granted, an Agreement for Exception, wherein the property owner expressly assumes the risk of all damage related to any sewage overflow or back-flooding that occurs due to the lack of such a device, to be recorded with the Monterey County Recorder's Office.

Section 3.8. Procedure for Obtaining Exception. A property owner applying for an exception shall obtain and fill out an Application for Exception to the requirements regarding installation of a backwater overflow prevention device on a form acceptable to the District. The application shall describe clearly the technical, cost, practical and/or aesthetic reasons why installation of such a device is not possible or practical. The District's General Manager or designee shall review the application and grant or deny the Application. If the Exception is granted, the property owner requesting the exception shall execute a recordable Agreement for Exception acknowledging the owner's assumption of the risk and waiver of liability against the District for all overflows impacting the property for which the exception is requested. Once executed, the waiver and assumption of risk shall be recorded with the Monterey County Recorder's Office so as to become part of the property's chain of title. If the Exception is denied by the General Manager, the applicant may appeal the denial to the Board of Directors by submitting a written notice of appeal to the Secretary of the Board within ten days after the date of the General Manager's denial. The appeal shall be calendared for the next regular Board meeting that is more than fifteen days after the Board Secretary receives the notice of appeal.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, or superseded by some other provision of law, such provisions shall be severed from and shall not affect the validity of the remaining provisions of this ordinance. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any other part thereof be unconstitutional or invalid, or superseded by some other provision of law. The parts of this ordinance which are not unconstitutional, invalid, or superseded shall remain in full force and effect and shall be enforced according to their terms.

Section 6. Interpretation. Words and Phrases used in this ordinance shall be read conjunctively with and shall have the same meaning as in prior district ordinances, unless specifically changed by this ordinance or unless the context requires some other construction. If there is any inconsistency between this ordinance and prior provisions, this ordinance shall control.

Section 7. Effective Date. Upon adoption by a four-fifths vote of the District's Board, this ordinance shall take effect immediately as an ordinance for the immediate preservation of the public peace, health and safety. If adopted by a majority of the Board, this Ordinance shall take effect 30 days after adoption.

Section 8. Publication and Posting. Within 15 days after adoption, the District shall publish, in a newspaper published in Monterey County and circulated within the District, a summary of this Ordinance, and shall post in the District office for not less than one week after posting a certified copy of the full text of this Ordinance as adopted along with the names of those Directors voting for and against adoption, and at least three full copies of the rules, procedures, guidelines and requirements and standard plans and specifications for construction

procedures, guidelines and requirements and standard plans and specifications for construction for water and sewer and storm drain service as amended by this Ordinance shall be maintained on file at the District office and available for use and examination by the public.

Section 9. Notice of Exemption Notice of Determination. The Secretary is authorized and directed to give due notice of exemption of this ordinance from the provisions of CEQA, pursuant to Title 14, California Code of Regulations, section 15062.

Section 10. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

The foregoing Ordinance is enacted and shall take effect on August 19, 2014, by the following roll call of the Board:

AYES: Melgoza, Montejano, Macmillan and Stefani

NOES: Ø

ABSENT: Lewis

APPROVED:
Ron Stefani
Ron Stefani, Vice President
(seal)

ATTEST:
Lidia Santos
Lidia Santos, Secretary



CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was adopted and approved by the Board of Directors at their regular meeting on August 19, 2014.

Lidia Santos
Lidia Santos, Secretary