

ORDINANCE NO. 194

AN ORDINANCE Amending Article V, Chapter 6, Sections 5601, 5602, 5603, 5604, and 5605 of the CASTRO VALLEY SANITARY DISTRICT CODE.

The Sanitary Board of the Castro Valley Sanitary District does hereby ordain the following:

Section 1:

Effective January 1, 2023, the following Sections of the Castro Valley Sanitary District Code are hereby amended to read as follows:

ARTICLE V REGULATION OF SOLID WASTE DISPOSAL, REFUSE AND RECYCLING CHAPTER 6 ADMINISTRATIVE PROVISIONS FOR THE BILLING, COLLECTION AND ENFORCEMENT OF COLLECTION OF CHARGES FOR SOLID WASTE DISPOSAL, REUSE AND RECYCLING

Section 5601. Definitions.

Terms used or referred to herein shall be defined as follows and not transferable to other sections:

- (a) "Solid Waste Collection Service" shall mean the collection and disposal of Solid waste, including garbage, recyclables, compostables, and construction and demolition debris, in accordance with the provisions of Chapter 1 of this Article.
- (b) "Person" shall mean any human being, individual, firm, company, partnership, association, and private or public and municipal corporations, the United States of America, the State of California, districts and all political subdivisions, governmental agencies, and mandatories thereof.
- (c) "Owner" shall mean the person exercising substantial control over any parcel or parcels of real property within the Castro Valley Sanitary District and to whom such property is assessed on the last equalized assessment roll of the County of Alameda.
- (d) "Contractor" shall mean that person or those persons with whom the Castro Valley Sanitary District shall have duly contracted for the collection, transport, processing of and/or disposal of solid waste generated within the District in accordance with the provisions of Chapter 1 of this Article.
- (e) "District" shall mean the Castro Valley Sanitary District and all the territory lying within its boundaries.
- (f) "Board" shall mean the Board of Directors of the Castro Valley Sanitary District.

(Added, §7, Ord. 108, 09-06-94)
(Amended, §2, Ord. 115, 12-10-96)
(Amended, §1, Ord. 132, 02-04B03)
(Amended, §1, Ord. 148, 04-07-09)
(Amended, §1, Ord. 162, 07-01-14)
(Amended, §1, Ord. 180, 02-05-19)
(Amended, §1, Ord. 194, 12-13-22)

Section 5602. Billing and Collection of Charges.

The District shall establish charges, by ordinance, for solid waste collection as herein defined. The District may authorize the Contractor to bill directly for Solid Waste Collection Service.

If such direct billing is authorized, the Contractor shall ascertain the amount of the charge or charges for services and facilities furnished and/or made available by such Contractor to each premises pursuant to this Article, calculated in accordance with the amounts established by ordinance, and mail to the bill payer a bill for such services as described in this Section. If the bill is not paid in full within 30 days from the due date, the Contractor shall send a request for payment to the bill payer. If the bill for commercial services remains unpaid after 30 days from the original due date, the Contractor shall be able to assess late fees at one and one-half percent (1.5%) per month. If the bill for residential services remains unpaid after 45 days from the original due date, the Contractor shall be able to assess late fees at one and one-half percent (1.5%) per month. If the bill remains unpaid after 60 days from the original due date, the Contractor shall send a 60-day notice to the bill payer and owner as shown upon the last equalized assessment roll available on the date the notice is mailed and to the address shown of the records of the Assessor of the County or as known to the District. Such request for payment shall include a notice advising of the owner's responsibility for payment for services furnished and/or made available to each premise owned and warning of the District's authority to enforce collection by any of the means set forth in Section 5603 of this Chapter. If the bill remains unpaid after 90 days from the original due date, the Contractor shall send a 90-day notice to the bill payer and owner. The 90-day notice shall include a notice informing the bill payer and owner of the delinquent status of the charges, of the potential for assessment upon the property tax roll and of the imposition of administrative charges in connection with such assessment ("Delinquency Subject to Special Assessment notice"). In addition, the Contractor shall send a 120-day Delinquency Subject to Special Assessment notice in the same manner as the 90-day notice described herein. If bill remains unpaid after 120 days from the original due date, the unpaid amount will be subject to a special assessment on the Alameda County tax roll, and subject to a \$50.00 administrative fee. The Contractor shall also send two additional Delinquency Subject to Special Assessment notices at intervals determined by the District. The District shall send a "Final Request for Payment" and "Notice of Administrative Hearing" letter by certified mail.

The form and content of the request for payment and the notices shall be approved by the District.

Failure of the Contractor to mail any such bill or failure of the owner to receive any such bill shall not relieve the owner of the premises from the obligation of paying the charges due.

(Added, §7, Ord. 108, 09-06-94)

(Amended, §3, Ord. 115, 12-10-96)

(Amended, §1, Ord. 132, 02-04-03)

(Amended, §1, Ord. 156, 07-01-12)

(Amended, §1, Ord. 162, 07-01-14)

(Amended, §1, Ord. 180, 02-05-19)

(Amended, §1, Ord. 194, 12-13-22)

Section 5603. Enforcement of Collection.

In the event of failure of any owner to pay when due any of the charges authorized by this Article, the District may authorize the Contractor to, or may itself, enforce payment of any such delinquent charges in any of the following manners:

(a) The District or Contractor may institute action in any court of competent jurisdiction to collect any charges which may be due and payable in the same manner as any other debts may be collected, in which event the District Contractor shall have judgment for the costs of suit and reasonable attorney's fees.

(b) Any and all delinquent payments 120 days or more in arrears may be placed on the tax roll, and collected with the property taxes, in accordance with the provisions of Sections 5604 and 5605 of this Chapter. However in no event, except upon notice in writing by the Contract Administrator, shall the Contractor cease provision of Single Family Dwelling (SFD), Multi-Family Dwelling (MFD), and/or Commercial Collection Services to any SFD, MFD, and/or Commercial Customer due to non-payment.

(c) Such other action may be taken as may be authorized by law and the District Board.

All powers authorized by this Section for the enforcement and collection of said solid waste collection charges are cumulative and may be pursued alternatively or collectively as the District determines.

(Added, §7, Ord. 108, 09-06-94)

(Amended, §7, Ord. 132, 02-04-03)

(Amended, §1, Ord. 148, 04-07-09)

(Amended, §1, Ord. 162, 07-01-14)

(Amended, §1, Ord. 180, 02-05-19)

(Amended, §1, Ord. 194, 12-13-22)

Section 5604. Collection of Charges as a Special Assessment on the Tax Roll.

The District may elect to have all or any portion of the charges established by this Article collected on the property tax roll in the same manner as, by the same person, and at the same time as, and together with and not separately from, general taxes.

If a determination is made to enforce collection of delinquent charges by assessment on the Alameda County property tax roll, in accordance with Section 5603(b) of this Chapter, an administrative hearing shall first be held in accordance with the provisions of Section 5605 of this Chapter. The amount to be assessed upon the property tax roll shall include all delinquent amounts as of April 30th of each year, the actual costs of assessment and collection of the delinquent charges on the property tax roll and an administrative fee in the amount of \$50.00 per assessor's parcel to cover the cost of processing the assessment.

(Added, §7, Ord. 108, 09-06-94)

(Amended, §1, Ord. 156, 07-01-12)

(Amended, §1, Ord. 162, 07-01-14)

(Amended, §1, Ord. 180, 02-05-19)

(Amended, §1, Ord. 194, 12-13-22)

Section 5605. Administrative Hearing Process.

Prior to placing delinquent charges on the Alameda County property tax roll for collection, an administrative hearing process, as set out herein below, will be followed:

(a) Prior to the "Final Request for Payment" and "Notice of Administrative Hearing" letter, the Contractor shall send a 30-day notice, a 60-day notice, a 90-day Delinquency Subject to Special Assessment notice, a 120-day notice Delinquency Subject to Special Assessment notice, and two additional Delinquency Subject to Special Assessment notices for which charges remain unpaid in accordance with Section 5602 of this Code.

(b) If the bill remains unpaid for more than 75 days after the original due date, the District will then establish a time and place for an administrative hearing before the Board of Directors of the District to protest the assessment of the delinquent charges upon the property tax roll. The District Board shall cause written notice of the hearing to be mailed to the owner not less than 10 days prior to the date set for hearing. This notice shall be attempted by deposit in the United States Mail in a sealed envelope, by certified mail, return receipt requested, postage prepaid, to the owner as the same is shown upon the last equalized assessment roll and to the address shown on the records of the Assessor of the County or as known to the District or Contractor. The form and content of notice of the hearing shall be approved by the District.

(c) At the time fixed for the administrative hearing, the District Board will be presented with a report setting forth the owner's name, the address of the premises, the period of time for which charges are delinquent, the amount of the delinquent charges, the steps taken to secure payment and any other information considered pertinent in the judgment of the District. The District Board will then hear any protests or objections to said report. If the Board of Directors determines that the report is correct, it shall be confirmed by resolution of the Board.

(d) The Board of Directors may order the investigation of any protest or objection made at the administrative hearing and may make any such revisions, corrections or modifications to the report as deemed necessary prior to acting upon its confirmation. Once said report has been confirmed, the delinquent charges and the added costs as specified in Section 5604 of this Code shall be assessed upon the property and shall constitute a special assessment against the same.

(e) Collection of delinquent account charges will be conducted in accordance with Section 4407 of this Code.

(Added, §7, Ord. 108, 09-06-94)

(Amended, §4, Ord. 115, 12-10-96)

(Amended, §1, Ord. 132, 02-04-03)

(Amended, §1, Ord. 156, 07-01-12)

(Amended, §1, Ord. 162, 07-01-14)

(Amended, §1, Ord. 180, 02-05-19)

(Amended, §1, Ord. 188, 07-06-21)

(Amended, §1, Ord. 194, 12-13-22)

This Ordinance shall be entered in the minutes of this Board and posted in three public places in the Castro Valley Sanitary District, and a summary of the Ordinance posted in a legal newspaper published in said District. This Ordinance shall become effective January 1, 2023.

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Adopted by the Sanitary Board of the Castro Valley Sanitary District on the 13th day of December 2022.

AYES: Directors Akagi, (Dooman) Woerz, Johnson, McGowan, and Sadoff
NOES: None
ABSENT: None
ABSTAIN: None

Dave Sadoff,
Secretary of the Sanitary Board

Timothy McGowan,
President of the Sanitary Board