

**GOLETA WEST SANITARY DISTRICT
ORDINANCE NO. 62**

**AN ORDINANCE SETTING FORTH PROVISIONS FOR
THE ENFORCEMENT OF ORDINANCES, RULES, AND
REGULATIONS OF GOLETA WEST SANITARY
DISTRICT.**

The Board of Directors of the Goleta West Sanitary District does hereby ordain as follows:

Section 1. The following ordinance is adopted.

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1.01. Violation, Notification of Violation.

(a) *Violators Subject to Enforcement Provisions.* Any person who violates any ordinance, rule, or regulation of the District shall be subject to the enforcement provisions of this ordinance. Each day that a violation of an ordinance, rule, or regulation continues shall constitute a separate and additional violation.

(b) *Notification of Violation.* Whenever it is found that any person has violated, is violating, or is threatening to violate any District ordinance, rule or regulation, or any prohibition, limitation or requirement contained therein, the District may serve upon such person a Notice of Violation stating the nature of the violation and providing a reasonable time, not to exceed thirty (30) days, for its satisfactory correction and the submission of an explanation of the circumstances giving rise to such violation. The Notice of Violation may set forth a compliance schedule with specific actions the user shall take in order to prevent or correct the violation. In addition, the Notice of Violation may require inspections or sampling and may impose other requirements deemed necessary. The Notice of Violation may also contain a statement that additional enforcement action may be pursued if corrective actions are not accomplished as scheduled.

(c) *Extension of Time to Comply.* If the Manager receives a request from any person required to comply with a Notice of Violation, the Manager may grant an extension for any period of time to correct or remedy the violation if the Manager determines that such an

extension of time will not create or perpetuate imminent danger to public health and safety. The Manager shall have the authority to place reasonable conditions on such an extension.

1.02. Administrative Order.

In lieu of issuing a Notice of Violation under Section 1.1 above, or, if a person does not take appropriate corrective action in response to a Notice of Violation issued under Section 1.1, the Manager may issue an Administrative Order requiring immediate compliance with the terms of the District ordinance, rule or regulation, or setting forth a compliance schedule with specific actions the user shall take in order to prevent or correct the violation. In addition, the Administrative Order may require inspections or sampling and may impose other requirements deemed necessary by the Manager. Prior to issuing such an Administrative Order, the Manager may, but shall not be required to, issue an order to show cause. Said order to show cause shall present the user with the facts demonstrating non-compliance and shall ask that the user show cause why the District should not initiate formal enforcement action or discontinue sewer service.

1.03. Appeals.

(a) *Right to Appeal.* Any user, permit applicant, permit holder or other person affected by a decision, action or determination, including a Notice of Violation or Administrative Order made, taken or issued by the District interpreting or implementing the provisions of any District ordinance, rule or regulation or any permit issued thereunder, may file with the Manager a written request for reconsideration within fifteen (15) days of such decision, action, determination or issuance, setting forth in detail the facts supporting the request for reconsideration. If the ruling by the District Manager on the request for reconsideration is unsatisfactory to the person requesting such reconsideration, the person may, within fifteen (15) days after notification of the Manager's ruling, file a written appeal with the Board. The appeal shall be considered by the Board at a regular meeting within thirty (30) days after the appeal is filed and at least ten (10) days notice of such meeting shall be given to the person filing the appeal.

(b) *Ruling by Board.* The Board shall make a final ruling upon the appeal within fifteen (15) days of the close of the meeting at which the appeal is considered and shall thereafter promptly notify the person filing the appeal of such ruling. The District Manager's decision, action or determination, and any Notice of Violation or Administrative Order issued by the District, shall remain in effect pending the final ruling by the Board.

1.04. Civil Penalties.

Any person who discharges pollutants, except in compliance with waste discharge requirements, or who violates any Administrative Order, prohibition, waste discharge requirement, effluent standard, water quality related effluent standard, federal standard or performance, pretreatment or toxicity standard or requirement, or who refuses to comply with the requirements adopted to control the disposal of pollutants into wells, or who fails to comply with the conditions of their permit, compliance schedule or any standard, condition or requirement set forth in any District ordinance, rule or regulation, shall be subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day such discharge, violation, refusal or failure to comply occurs. The District may petition the Superior Court to impose, assess and recover any such civil penalty. (Authority: Clean Water Act, 33 U.S.C., § 1251, *et seq.*; Cal. Gov't Code, §§ 54739, 54740.)

1.05. Administrative Penalties.

(a) *Violators Subject to Administrative Penalties.* A person who violates any District ordinance, rule or regulation shall be subject to administrative penalty.

(b) *Issuance of Administrative Complaint.* Prior to imposing such administrative penalties, the District shall issue an administrative complaint to the person the District alleges has violated a District ordinance, rule, or regulation. The administrative complaint shall allege the act or failure to act that constitutes the violation of the District's ordinances, rules, or regulations, the provisions of law authorizing liability to be imposed, and the proposed penalty. The administrative complaint shall be served by personal delivery or certified mail, and shall inform the person served that a hearing shall be conducted within 60 days after the person has been served.

(c) *Notice of Violation.* Where the alleged violation pertains to building, plumbing, or other similar structural or zoning issues and does not create an immediate danger to health or safety, the District shall, prior to imposing administrative penalties, first issue a Notice of Violation that gives a person responsible for a continuing violation a reasonable period of time to correct or remedy the violation.

(d) *Hearing.* The hearing shall be before a hearing officer designated by the Board of Directors. The person who has been issued an administrative complaint may waive the right to a hearing, in which case the local agency shall not conduct a hearing. A person dissatisfied with the decision of the hearing officer may appeal to the Board of Directors within 30 days of notice of the hearing officer's decision.

(e) *Determination of Penalty; Schedule of Penalties.* If after the hearing, or appeal, if any, it is found that the person has violated a District ordinance, rule, or regulation, the hearing officer or Board of Directors may assess an administrative penalty against that person. The Board of Directors may by resolution adopt and, from time to time, amend a schedule of penalties for violation particular ordinances of the District. The schedule may include escalating fine amounts for repeat violations occurring within specified periods of time. In determining the amount of the administrative penalty where the particular violation is not set forth in the District's schedule of penalties or in considering a reduction, the hearing officer or Board of Directors shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.

(f) *Limits on Penalty Amounts.* Penalties shall not exceed the limits set forth in subdivision (d)(1) of Cal. Gov't Code, § 54740.5. No administrative penalties shall be recoverable under this section for any violation for which the District has recovered civil penalties through a judicial proceeding filed pursuant to Government Code Section 54740.

(g) *Collection of Fines and Penalties.*

(1) *Remedies Cumulative.* Remedies for collecting and enforcing fines and penalties for violation of any ordinance set out in this Section are cumulative and any and all may be used alternatively, and none of the remedies are exclusive.

(2) *Placed on Tax Bill.* Fines and penalties imposed for violation of any ordinance may be added to and become part of the charges fixed by the District for services furnished to the property where the violation occurred if the property is owned, controlled, or in the possession of the same person who owned, controlled, or was in possession of it during the time the violation occurred. Fines and penalties may be collected in the same manner, by the same persons, and at the same time together with the fees and charges levied for the District.

(3) *Lien.* Fines and penalties added to a service charge are a lien on the land.

(4) *Petition to Court.* Fines and penalties may be collected by an action in any court of competent jurisdiction against a person or persons who owned the property where the violation occurred.

(Authority: Cal. Gov't Code, §§ 54740.5, 53069.4.)

1.06. Criminal Penalties.

(a) *Violations of Ordinances, Rules, Regulations.* Any person who willfully or negligently discharges pollutants, except in compliance with wastewater discharge requirements, or who willfully or negligently violates any Administrative Order, prohibition, wastewater discharge requirement, effluent standard, water quality related effluent standard, Federal standard or performance, pretreatment or toxicity standard or requirement, or who fails to comply with the conditions of their permit, compliance schedule or any standard, condition or requirement set forth in any District ordinance, rule or regulation, shall be punished by a fine of not more than one thousand dollars (\$1,000) for each day such violation occurs, or by imprisonment for not more than thirty (30) days, or both.

(b) *False Statements.* Any person who knowingly makes any false statement, representation, record, report, plan or other document filed with a Regional Water Quality Control Board or the State Water Resources Control Board, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required by the laws of the State of California, shall be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment for not more than six (6) months, or both.

(c) *Authority to Request Enforcement.* If the District believes a criminal offense has been committed hereunder, it may refer the matter to the District Attorney for prosecution. Nothing in this ordinance shall limit the District's authority to request enforcement of Section 6523 of the California Health and Safety Code, which provides that a violation of a regulation of the District is a misdemeanor punishable by imprisonment in the county jail not to exceed thirty (30) days or by a fine not to exceed one thousand dollars (\$1,000.00), or by both.

1.07. Termination of Service.

The Board may revoke any connection permit or any Industrial Wastewater Discharge Permit, or terminate or cause to be terminated sewer service to any premises if a violation of any provision of the ordinance is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution or nuisance as defined in this ordinance, or for any condition that presents, or reasonably appears to present, an imminent danger to the environment or the health or welfare of persons, or that threatens to interfere with the operation of the publicly

owned treatment works. The Health Department shall be notified upon such termination of service. Upon termination the Manager shall estimate the cost of disconnection from and reconnection to the system, and such user shall deposit the cost, as estimated, of disconnection and reconnection before such user is reconnected to the system. The District Manager shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection. This provision is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment.

1.08. Correction of Violations.

In order to enforce the provisions of any District ordinance, the District may correct any violation thereof. The cost of such correction (including, but not limited to, any fines or other costs imposed on the District by any Federal or State agency or court) shall be payable by the person violating the ordinance or by the owner or tenant of the property upon which the violation occurred. Such cost may be added to any sewer service charge payable in connection with the property. The District shall have such remedies for the collection of such costs as it has for the collection of sewer charges, in addition to any other remedies provided for herein or by law.

1.09. Injunction.

Whenever a discharge of wastewater is in violation of the provisions of any District ordinance or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, or in the case of non-discharge violations or other such non-compliance with the rules and regulations set forth therein, the District may petition the Superior Court for the issuance of a restraining order or a preliminary or permanent injunction, or any or all of these, as may be appropriate.

1.10. Nuisance.

Any discharge in violation of the substantive provisions of any District ordinance, rule or regulation, or in violation of an order of the Board, shall be considered a public nuisance. Continued habitation of any building in violation of the provisions of this or any other ordinance, rule or regulation of the District is hereby declared to be a public nuisance. Any person creating a public nuisance is guilty of a misdemeanor. In the event of a public nuisance, the Board may direct the District's counsel to commence an action for appropriate legal and/or equitable relief in the Superior Court, or may refer the matter to the District Attorney for prosecution. In such event and as a condition of reconnection or as a condition of continued connection, there shall be paid to the District, by the person in violation, a sum of money equal to reasonable attorney's fees, costs of suit and all other expenses reasonably occasioned to the District as a result of said violation. "All other expenses" above mentioned, shall include, but not be limited to, a return to the District of a reasonable charge for the payment of the time expended by District employees as a result of the violation.

1.11. Damage to Facilities.

When a discharge of wastes causes an obstruction, damage, or any other impairment to the facilities owned or used by the District, the District may assess a charge against the responsible person for the work required to clean or repair the facility. Such charge may be added to the person's charges and fees, or may be collected in any manner authorized herein or by law.

1.12. Liability for Violation.

Any person violating any of the provisions of the ordinances, rules or regulations of the District shall become liable to the District for each, every, any and all expenses, losses or damages occasioned by the District by reason of such violation. For the purposes of this provision, "expenses, losses or damages" shall include, but not by way of limitation, reasonable attorney's fees incurred by the District for negotiations, consultations, litigation or otherwise, and shall include reimbursement to the District for the costs to it of the hours expended by the employees of the District by reason of such violation and all other costs and expenses so occasioned.

1.13. Hearing.

Prior to seeking a civil penalty, but not an administrative penalty, under Section 1.4, terminating service under Section 1.7, correcting a violation under Section 1.8, seeking a temporary restraining order or injunction under Section 1.9, taking action to abate a public nuisance under Section 1.10, or referring a violation for criminal prosecution under Section 1.6 or Section 1.10, the Board shall conduct a hearing to consider the proposed action. The person or persons affected by the proposed action shall be given at least ten (10) days notice of the hearing and shall be given the opportunity to present evidence and testimony relating to the matter. Such affected person or persons shall also be notified of the decision made by the Board and such decision shall be final. Notwithstanding the foregoing, unless otherwise required by law, neither a hearing nor prior notice to affected persons shall be required in cases where immediate action must be taken to prevent injury to persons or serious damage to property as a result of a violation hereunder. In the event the District seeks to impose an administrative penalty pursuant to Section 1.4(b), the District shall comply with the hearing and other procedures prescribed by California Government Code Section 54740.5.

1.14. Additional Enforcement Procedures.

The enforcement procedures set forth herein are in addition to and not in limitation of the enforcement procedures otherwise provided for by law. The District may utilize any available local, State or Federal enforcement procedures in addition to or in lieu of the procedures provided for hereunder.

1.15. Published Notices of Non-Compliance.

Public notification will be made at least annually in the daily local newspaper with the largest circulation in the District, listing all persons who, during the previous twelve (12) months were significantly violating applicable Federal Pretreatment Standards or other pretreatment requirements. For the purposes of this provision, a significant violation is a violation that remained uncorrected forty-five (45) days after notification of the violation, that was part of a pattern of non-compliance over a twelve (12) month period, that involved a failure to accurately report non-compliance, or that resulted in the District exercising its emergency authority.

Section 2. Publication. Upon adoption, this ordinance shall be entered in the minutes of the Board and either posted for one week in three public places in the District or published as required by law, and shall take effect upon expiration of the week of such publication or posting. If published, the General Manager shall prepare a summary of the ordinance for publication; the summary shall include the names of those board members voting for and against the ordinance.

Section 3. Severability. If any section, sub-section, sentence, clause or phrase of this ordinance or the application thereof to any person or circumstance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance or the application of such provisions to other persons or circumstances. The Board hereby declares that it would have passed this ordinance or any section, sub-section, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared to be unconstitutional.

PASSED and ADOPTED by the Board of Directors of the Goleta West Sanitary District on the 22nd day of February 2000.

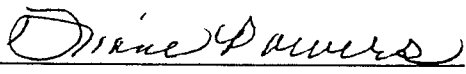
AYES: Bearman, Gish, Hendrickson, Lewis

NOES: None


ABSTENTIONS: None

ABSENT: Meyer

ATTEST:


Diane Powers, Secretary

(SEAL)


Kenneth Hendrickson, President