

**ORDINANCE NO. 191**  
**AN ORDINANCE OF THE VALLECITOS WATER DISTRICT**  
**ESTABLISHING RULES AND REGULATIONS FOR**  
**CONTROL OF FATS, OILS AND GREASE**

WHEREAS the Board of Directors wishes to establish rules and regulations for the control of fats, oils, and grease (FOG) from food service establishments (FSEs) and the recovery of reasonable costs associated with compliance;

WHEREAS the program intends to: provide for the beneficial use of the District's wastewater collection, conveyance and treatment system; prevent blockages of wastewater systems and the accidental discharge of wastewater to storm drain systems or the environment; ensure the cost of maintaining a FOG program is equitably distributed among users; and establish grease disposal requirements to promote public health and safety.

WHEREAS the District is required to have a FOG control program in accordance with the 2006-0003-DWQ Statewide General Discharge Requirements for Sanitary Sewer System issued by the State Water Resources Control Board;

WHEREAS the District General Manager, or his designee, shall be authorized to enforce all provisions of this Ordinance;

BE IT ORDAINED by the Board of Directors of the Vallecitos Water District as follows:

**SECTION 1:           PURPOSE AND SCOPE**

It is the purpose and intent of this ordinance to establish regulations for the disposal of FOG and other insoluble waste discharges from FSEs within the District's service area.

For purposes of this ordinance, FSEs shall include establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption and use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing. Examples of FSEs include, but are not limited to, full service restaurants, fast food establishments, delicatessens, cafeterias (including church and school facilities where commercial equipment is installed and the frequency of use indicates more than occasional use), meat distributors, butchering, food processing facilities, grocery stores with food preparation and/or service areas, bakeries, caterers, and/or similar types of operations.

**SECTION 2:           DISCHARGE PROHIBITIONS**

No person shall discharge, or cause to be discharged, any wastewater from a FSE directly or indirectly into the sewer system without complying with this section.

No FSE shall discharge, or cause to be discharged into the sewer system, FOG that exceeds the concentration levels in accordance with the District's Pretreatment Ordinance or that may accumulate, cause or contribute to blockages in the public wastewater system or private sewer lateral which connects the FSE to the public wastewater system.

The following prohibitions shall apply to all FSEs:

- Installation of food grinders in the plumbing system of new construction of any FSEs that generate FOG is prohibited. Existing food grinders must be removed from existing food service establishments that generate FOG, as determined by the District, within ninety (90) days of written notice to remove.
- Introduction of any additives into any FSE wastewater system for the purpose of emulsifying FOG is prohibited.
- Disposal of waste cooking oils into drainage pipes. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.
- Discharge of wastewater from dishwashers to any grease removal device (GRD). GRD shall mean any gravity grease interceptor, hydromechanical grease interceptor or other approved device, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect FOG and solid waste prior to it being discharged into the sewer system.
- Discharge of wastewater with temperatures in excess of 140°F to any GRD.
- The use of biological additives for grease remediation or as a supplement to interceptor maintenance is prohibited, unless prior written approval from the General Manager is obtained.
- Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for GRD service, or vice versa.
- Discharge into the sewer system of any waste which has FOG as well as solid waste removed from a GRD. Waste from a GRD shall be waste hauled periodically as part of the operation and maintenance requirements. A licensed waste hauler or an approved recycling facility shall be used to dispose of FOG, including waste cooking oils.
- Operation of a GRD with FOG and solids accumulation exceeding twenty-five percent (25%) of the design hydraulic depth.

**SECTION 3: FOG PRETREATMENT REQUIREMENTS**

All FSEs are required to install, operate and maintain an approved type and adequately sized GRD necessary to maintain compliance with the objectives of this section.

The GRD must be capable of separating and removing FOG contained in wastewater discharges from any FSEs prior to discharge to the sewer system consistent with the requirements of this section.

Property owners of commercial properties or their official designee(s) shall be responsible for the installation and maintenance of the GRD serving multiple FSEs that are located on a single parcel.

#### SECTION 4: NEW CONSTRUCTION

All new construction, remodeling or change in operations shall require the installation of an approved gravity GRD. If the City/County Building Department determines that it is impossible or impracticable to install or operate a gravity GRD for the subject facility under the provisions of this section, properly-sized hydromechanical GRD can be installed in-lieu of a gravity GRD.

#### SECTION 5: NOTIFICATION OF PLANNED CHANGES

All FSEs shall notify the District in writing at least sixty (60) days in advance of any change of ownership, facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of discharges. The notification shall include the extent of the proposed expansion/remodeling and all information requested by the District for evaluation of the effect of such expansion on the FOG discharge to the sewer system.

#### SECTION 6: GRD INSTALLATION REQUIREMENTS

GRDs for FSEs sizing and installation shall conform to the current edition of the California Plumbing Code and shall be constructed in accordance with the design approved by the City/County Building Department. GRDs shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease and solids.

#### SECTION 7: GRD MAINTENANCE REQUIREMENTS

GRDs shall be maintained in an efficient manner consistent with the maintenance frequency approved by the District allowing periodic removal of the full content which includes wastewater, accumulated FOG, floating materials, sludge and solids. This is to ensure that the minimum hydraulic retention time and required available volume is maintained to effectively intercept and prevent FOG from being discharged to the sewer system. No FOG that has accumulated in a GRD shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right of way during maintenance activities.

Section 7.1: Minimum Cleaning Frequency. Gravity GRDs shall be fully pumped out and cleaned at a minimum of once every three (3) months or at a frequency such that the combined FOG and solids accumulation does not exceed twenty-five percent (25%) of the total designed hydraulic depth of the GRD.

Hydromechanical GRDs shall be fully pumped out and cleaned at a minimum of once a month or at a frequency such that the combined FOG and solids accumulation does not exceed twenty-five percent (25%) of the total designed hydraulic depth of the GRD.

The maintenance frequency may be adjusted by the District when sufficient data has been collected to establish a revised frequency based on actual operating conditions and generation of FOG from the FSE. The maintenance frequency may be increased or decreased.

The owner/operator of a FSE may submit a request to the District requesting a change in the maintenance frequency. The FSE has the responsibility to submit data and information necessary to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in this section.

If the GRD, at any time, contains FOG and solids accumulation that does not meet the requirements described in this section, the FSE shall be required to have the GRD serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed.

#### SECTION 8: MONITORING FACILITIES REQUIREMENTS

The District may require FSEs to construct and maintain in proper operating condition, at the establishment's sole expense, flow monitoring, constituent monitoring and/or sampling facilities. The location of the monitoring or metering facilities shall be at the sole discretion of the District. FSEs may be required to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of the GRD and compliance with this section.

FSEs shall not increase the use of water, or in any other manner attempt to dilute a discharge, as a partial or complete substitute for treatment to achieve compliance with this section.

#### SECTION 9: BEST MANAGEMENT PRACTICES

All FSEs shall establish and implement Best Management Practices (BMPs) to minimize the discharge of FOG to the sewer system and shall include, at a minimum, the following BMPs:

- Drain screens shall be installed on all sanitary sewer drainage pipes in food preparation and kitchen areas.
- Kitchen Best Management Practices and No Grease signage shall be posted conspicuously in the food preparation and dishwashing areas at all times.
- All waste cooking oil shall be collected and stored properly in recycling receptacles such as drums and barrels. Recycling receptacles shall be maintained properly to ensure that they do not leak. Licensed waste haulers and/or approved recycling facilities must be used to dispose of the waste cooking oil.
- All food waste shall be disposed of directly into the trash or garbage, and not in sinks or toilets.
- All wastewater flowing into a GRD shall not exceed a temperature of 140° F.
- Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning the exhaust filter shall be disposed of properly.

Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by the District. Employees of the FSE shall be trained once every six (6) months and all new-hires must be trained within two (2) weeks of employment on the following subjects:

- How to "dry wipe/scrape" pots, pans, dishware and work areas to remove food waste, fats, oils and grease prior to dishwashing.
- How to properly dispose of food waste and solids prior to disposal in trash bins or containers to prevent leaking and odors.
- The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.
- How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling.

#### SECTION 10: MONITORING AND REPORTING CONDITIONS

The District may require periodic reporting of FSEs' implementation of Best Management Practices.

The District may require visual monitoring (video camera inspection), at the sole expense of FSEs, to observe the actual conditions of the sewer lateral and sewer lines downstream.

The District may require written reports from a certified laboratory for self-monitoring of wastewater constituents and FOG characteristics of FSEs needed for determining compliance with this section. Failure by FSEs to perform any required monitoring, or to submit monitoring reports required by the District, constitutes a violation of this section and shall be cause for the District to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in this section. FSEs shall be responsible for any and all expenses of the District in undertaking such monitoring analyses and preparation of reports.

Other reports may be required such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the District to ensure compliance with this section.

#### SECTION 11: RECORD KEEPING REQUIREMENTS

FSEs shall keep all manifests, receipts and invoices of all cleaning, maintenance of the GRD, disposal carrier and disposal site location for no less than three (3) years. FSEs shall, upon request, make the manifests, receipts and invoices available to the District. These records may include:

- A logbook of GRD cleaning and maintenance practices.
- A record of BMPs being implemented including employee training.
- Copies of records and manifests of waste hauling interceptor contents and/or waste cooking oil disposal.
- Records of sampling data and sludge height monitoring for FOG and solids accumulation in the GRD.
- Any other information deemed appropriate by the District to ensure compliance with this section.

#### SECTION 12: INSPECTION AND SAMPLING CONDITIONS

District may inspect or order the inspection and sample the wastewater discharges of FSEs subject to this section to ascertain whether the intent of the FOG program is being met and the FSEs are complying with conditions of this Ordinance.

FSEs shall allow District access to the premises during normal business hours for purposes of inspecting GRDs, BMPs and record keeping requirements.

District shall have the right to place or order the placement on FSEs' property or other locations, as determined by District, such devices as are necessary to conduct sampling or metering operations. Where FSEs have security measures in force, FSEs

shall make necessary arrangements for representatives of District to be permitted to enter without delay for the purpose of performing their specific responsibilities.

**SECTION 13:        RIGHT OF ENTRY**

Persons or occupants of premises where wastewater is created or discharged shall allow District reasonable access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the discharger's facility is open, operating, or any other reasonable time. No person shall interfere with, delay, resist or refuse entrance to District personnel attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to District's sewer system. In the event of an emergency involving actual or imminent sanitary sewer overflow (SSO), District may access adjoining businesses or properties that share a sewer system with FSEs in order to prevent or remediate an actual or imminent SSO.

**SECTION 14:        INSPECTION/ADMINISTRATION FEES**

All account holders associated with FSEs shall pay a monthly fee of Twenty-One Dollars (\$21). The fee shall be adjusted automatically on January 1 of each year by the increase in the San Diego All-Urban Consumer Price Index.

A re-inspection fee of One Hundred Dollars (\$100) may be collected for additional inspections required to determine whether specified corrected actions for noted violations of this ordinance have been implemented and if additional improvements are required.

**SECTION 15:        NUISANCE DECLARATION**

Sewer system overflows may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Discharge of wastewater in any manner in violation of this ordinance is hereby declared a public nuisance and shall be corrected or abated as directed by District.

**SECTION 16:        NOTIFICATION OF SPILL**

In the event any FSE is unable to comply with any provision of this section as a result of a breakdown of equipment, accidents, or human error or the FSE has reasonable opportunity to know that the discharge will exceed the discharge provisions of this ordinance or has the potential to result in sewer blockages or SSOs, the discharger shall immediately notify District by telephone.

Such notification shall not relieve FSEs of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to District or any other damage or loss to person or property; nor shall such notification relieve FSEs of any fees or other liability which may be imposed by this section or other applicable law.

**SECTION 17: SEWER SYSTEM OVERFLOWS AND CLEANUP COSTS**

FSEs found to have contributed to a sewer blockage, SSO, or any sewer system interferences resulting from the discharge of wastewater or waste containing FOG, may be ordered to install and maintain GRDs and may be subject to a plan to abate the nuisance and prevent any future health hazards created by sewer line failures and blockages, SSOs or any other sewer system interferences.

If District must act to contain and/or clean up a SSO caused by blockage of a private or public sewer system, because of an unauthorized discharge of FOG, District's costs for such abatement will be borne by the property owner or operator of the FSE, and said costs will become due and payable upon District's request for reimbursement.

FSEs that experience two (2) or more SSOs within a one (1) year period, or three (3) within a five (5) year period, may be required by the District to install FOG pretreatment units if the FSEs do not have one, or upgrade to a larger unit, to prevent future SSOs. FSEs may also be required to inspect and/or repair their private lateral on a frequency approved by District.

All sewer laterals must be cleaned periodically by the property owner at a frequency that prevents blockages or SSOs from occurring.

**SECTION 18: ENFORCEMENT, PURPOSE AND SCOPE**

The Board of Directors finds that in order for District to comply with the laws, regulations, and rules imposed upon it by regulatory agencies, and to ensure that District's sewer facilities are protected and are able to operate with the highest degree of efficiency, and to protect the public health and environment, specific enforcement provisions must be adopted to govern the discharges to District's system by FSEs.

To ensure that all interested parties are afforded due process of law and that violations are resolved as soon as possible, the general policy of District is that:

- Any determination relating to a notice of violation and Compliance Schedule Agreement (CSA) will be made by the District, with a right of appeal by FSEs to the General Manager pursuant to the procedures set forth in Section 25.
- FSEs may request District's Board of Directors to hear an appeal of the General Manager's decision pursuant to Section 26. Such request may be granted or denied by the Board of Directors.

**SECTION 19: COMPLIANCE SCHEDULE AGREEMENT**

Upon determination that a FSE is in noncompliance with the terms and conditions specified in any provision of this ordinance, or needs to construct and/or acquire and install GRDs, District may require FSEs to enter into a Compliance Schedule Agreement (CSA).



The issuance of a CSA may contain terms and conditions including but not limited to requirements for installation of GRDs and facilities, submittal of drawings or reports, audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with this ordinance.

District shall not enter into a CSA until such time as all amounts owed to District, including user fees, noncompliance sampling fees or other amounts due are paid in full, or an agreement for deferred payment secured by collateral or a third party, is approved by the District.

If compliance is not achieved in accordance with the terms and conditions of a CSA during its term, the General Manager may terminate FSEs' sewer service.

All costs for physical termination shall be paid by the owner or operator of FSEs as well as all costs for reinstating service.

FSEs determined to be in noncompliance with the terms and conditions specified in any provision of this ordinance shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate District for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Sections 22, 23 and 24. Noncompliance fees shall be in the amount adopted by ordinance or resolution of District's Board of Directors.

**SECTION 20:        DAMAGE TO FACILITIES OR INTERRUPTION OF  
NORMAL OPERATIONS**

Any person who discharges any waste which causes or contributes to any sewer blockage, SSO, obstruction, interference, damage, or any other impairment to District's sewer facilities or to the operation of those facilities shall be liable for all costs required to clean or repair the facilities together with expenses incurred by District to resume normal operations. A Board-adopted overhead charge shall be added to the costs and charges to reimburse District for miscellaneous overhead, including administrative personnel and record keeping. The total amount shall be payable within forty-five (45) days of invoicing by District.

Any person who discharges a waste which causes or contributes to District's violation of discharge requirements established by any regulatory agency incurring additional expenses or suffering losses or damage to the facilities, shall be liable for any costs or expenses incurred by the District, including regulatory fines, penalties, and assessments made by other agencies or a court.

**SECTION 21:        EMERGENCY SUSPENSION ORDER**

District may, by order of the General Manager, suspend sewer service when the General Manager determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or

substantial endangerment to the health and welfare of persons, or to the environment, or may cause SSOs, sewer blockages, interference to District's sewer facilities, or may cause District to violate any state or federal law or regulation. Any discharger notified of and subject to an Emergency Suspension Order shall immediately stop the discharge of all wastewater containing FOG to the sewer system.

As soon as reasonably practicable following the issuance of an Emergency Suspension Order, but in no event more than five (5) business days following the issuance of such order, the General Manager shall hold a hearing to provide the FSE the opportunity to present information in opposition to the issuance of the Emergency Suspension Order. Such hearing shall not stay the effect of the Emergency Suspension Order. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by District's General Counsel. The General Manager shall issue a written decision and order within two (2) business days following the hearing, which decision shall be sent by certified mail to the FSE or its legal counsel/representative at the FSE's business address. The decision of the General Manager following the hearing shall be final and not appealable to District's Board, but may be subject to judicial review pursuant to Section 29.

## SECTION 22: CIVIL PENALTIES

All users of District's system and facilities are subject to enforcement actions administratively or judicially by District, U.S. Environmental Protection Agency, and State of California Regional Water Quality Control Board. Said actions may be taken pursuant to the authority and provisions of several laws, including but not limited to: (1) Federal Water Pollution Control Act, commonly known as the Clean Water Act (33 U.S.C.A. § 1251, et seq.); (2) California Porter-Cologne Water Quality Control Act (California Water Code, § 13000, et seq.); (3) California Hazardous Waste Control Law (California Health & Safety Code §§ 25100 to 25250); (4) Resource Conservation and Recovery Act of 1976 (42 U.S.C.A § 6901, et seq.); and (5) California Government Code, §§ 54739-54740.

In the event District is subject to the payment of fines or penalties pursuant to the legal authority and actions of other regulatory or enforcement agencies based on a violation of law or regulation or its permits, and said violation can be established by District as caused by the discharge of any user of District's system in violation of any provision of this ordinance, then District shall be entitled to recover from the user all costs and expenses, including but not limited to the full amount of said fines or penalties to which it has been subjected.

Pursuant to the authority of California Government Code Sections 54739-54740, any person who violates any provision of this ordinance, any permit condition, prohibition or effluent limit, or any suspension or revocation order shall be liable civilly for a sum not to exceed \$25,000 per violation for each day in which such violation occurs. Pursuant to the authority of the Clean Water Act (33 U.S.C. § 1251, et seq.), any person who violates any provision of this ordinance, or any permit condition, prohibition, or effluent limit shall be liable civilly for a sum not to exceed \$25,000 per violation for each day in which such violation occurs. District's General Counsel, upon request of the General Manager, shall petition the Superior Court to impose, assess,

and recover such penalties, or such other penalties as District may impose, assess, and recover pursuant to federal and/or state legislative authorization.

**SECTION 23: ADMINISTRATIVE CIVIL PENALTIES**

(1) Pursuant to the authority of California Government Code Sections 54740.5 and 54740.6, District may issue an administrative complaint to any person who violates:

- (a) any provision of this ordinance;
- (b) any permit condition, prohibition, or effluent limit; or
- (c) any suspension or revocation order.

(2) The administrative complaint shall be served by personal delivery or certified mail on the person and shall inform the person that a hearing will be conducted, and shall specify a hearing date within sixty (60) days following service. The administrative complaint will allege the act or failure to act that constitutes the violation of District's regulations, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty. The matter shall be heard by the General Manager or his/her designee. The person to whom an administrative complaint has been issued may waive the right to a hearing, in which case a hearing will not be conducted.

(3) At the hearing, the person shall have an opportunity to respond to the allegations set forth in the administrative complaint by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures established by the General Manager and approved by the District's General Counsel.

(4) If the General Manager designated a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the General Manager setting forth a brief statement of the facts found to be true, a determination of the issues presented, conclusions, and a recommendation.

(5) Upon receipt of the written report by the hearing officer, or conclusion of the hearing if the General Manager conducted the hearing, the General Manager shall make a determination and if grounds exist for assessment of a civil penalty against the person, shall issue a decision and order in writing within thirty (30) calendar days after the conclusion of the hearing.

(6) If it is found after the hearing or appeal, that the person has violated reporting or discharge requirements, the General Manager or Board of Directors may assess a civil penalty against that person. In determining the amount of the civil penalty, the General Manager or Board of Directors may 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 non-compliance, 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 person involved.

(7) Civil penalties may be assessed as follows:

(a) In an amount which shall not exceed Two Thousand Dollars (\$2,000) for each day for failing or refusing to furnish required reports;

(b) In an amount which shall not exceed Three Thousand Dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedules established by the District;

(c) In an amount which shall not exceed Five Thousand Dollars (\$5,000) per violation for each day of discharge in violation of any waste discharge limit, permit condition, or requirement issued, reissued, or adopted by the District;

(d) In any amount which does not exceed Ten Dollars (\$10) per gallon for discharges in violation of any suspension, revocation, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District.

(8) An order assessing administrative civil penalties issued by the General Manager shall be final in all respects on the thirty-first (31st) day after it is served on the person unless an appeal and request for hearing is filed with the Board of Directors pursuant to Section 26 no later than the thirtieth (30th) day following such mailing. An order assessing administrative civil penalties issued by the Board of Directors shall be final upon issuance.

(9) Copies of the administrative order shall be served on the party served with the administrative complaint, either by personal service or by registered mail to the person at the business or residence address, and upon other persons who appeared at the hearing and requested a copy of the order.

(10) Any person aggrieved by a final order issued by the Board of Directors, after granting review of the order of the General Manager, may obtain review of the order of the Board of Directors pursuant to Government Code Section 54740.6, by filing in the superior court a petition for writ of mandate within thirty (30) days following the service of a copy of the decision or order issued by the Board of Directors.

(11) Payment of any order setting administrative civil penalties shall be made within thirty (30) days of the date the order becomes final. The amount of any administrative civil penalties imposed shall constitute a debt to District.

(12) No administrative civil penalties shall be recoverable for any violation for which District has recovered civil penalties through a judicial proceeding filed pursuant to Government Code Section 54740.

#### SECTION 24: CRIMINAL PENALTIES

Any person who violates any provision of this Ordinance is guilty of a misdemeanor, which upon conviction is punishable by a fine not to exceed One Thousand Dollars (\$1,000), or imprisonment for not more than six (6) months, or both. Each violation and each day in which a violation occurs may constitute a new and separate violation of this ordinance and shall be subject to the penalties contained herein.

**SECTION 25: APPEALS TO GENERAL MANAGER**

FSEs affected by any decision, action or determination made by District or notice of violation given during an inspection, may file with the General Manager a written request for an appeal hearing. The request must be received by District within fifteen (15) days of mailing of notice of the decision, action, or determination of the General Manager to the appellant. The request for hearing shall set forth in detail all facts supporting the appellant's request.

The General Manager shall, within fifteen (15) days of receiving the request for appeal, designate a department head or other person to hear the appeal and provide written notice to the appellant of the hearing date, time and place. The hearing date shall not be more than thirty (30) days from the mailing of such notice by certified mail to the appellant unless a later date is agreed to by the appellant. If the hearing is not held within said time due to actions or inactions of the appellant, then the staff decision shall be deemed final.

At the hearing, the appellant shall have the opportunity to present information supporting its position concerning the General Manager's decision, action or determination. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by District's General Counsel.

After conclusion of the hearing, the department head (or other designee) shall submit a written report to the General Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation whether to uphold, modify or reverse the original decision, action or determination. Upon receipt of the written report, the General Manager shall make a determination and shall issue the decision and order within thirty (30) calendar days of the hearing by the designee. The written decision and order of the General Manager shall be sent by certified mail to the appellant or its legal counsel/representative at the appellant's business address.

The order of the General Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the appellant unless a request for hearing is filed with the Board of Directors pursuant to Section 26, no later than 5:00 p.m. on the fifteenth (15th) day following such mailing.

**SECTION 26: APPEALS TO THE BOARD OF DIRECTORS**

FSEs adversely affected by a decision, action, or determination made by the General Manager may, prior to the date that the General Manager's order becomes final, file a written request for hearing before the Board of Directors accompanied by an appeal fee in the amount established by a separate resolution of District's Board of Directors. The request for hearing shall set forth in detail all the issues in dispute for which the appellant seeks determination and all facts supporting appellant's request. No later than sixty (60) days after receipt of the request for hearing, the Board of Directors shall either set the matter for a hearing, or deny the request for a hearing. A hearing shall be held by the Board of Directors within sixty-five (65) days from the date

of determination granting a hearing, unless a later date is agreed to by the appellant and the Board of Directors. If the matter is not heard within the required time, due to actions or inactions of the appellant, the General Manager's order shall be deemed final.

The appeal fee shall be refunded if the Board of Directors denies a hearing or reverses or modifies, in favor of the appellant, the order of the General Manager. The fee shall not be refunded if the Board of Directors denies the appeal.

After the hearing, the Board of Directors shall make a determination whether to uphold, modify, or reverse the decision, action, or determination made by the General Manager. The decision of the Board of Directors shall be set forth in writing within sixty-five (65) days after the close of the hearing and shall contain a finding of the facts found to be true, the determination of issues presented, and the conclusions. The written decision and order of the Board of Directors shall be sent by certified mail to the appellant or its legal counsel/representative at the appellant's business address.

The order of the Board of Directors shall be final upon its adoption. In the event the Board of Directors fails to reverse or modify the General Manager's order, it shall be deemed affirmed.

#### SECTION 27: PAYMENT OF CHARGES

Except as otherwise provided, all fees, charges and penalties established by this ordinance are due and payable upon receipt of notice thereof. All such amounts are delinquent if unpaid twenty (20) days after date of invoice. Any charge that becomes delinquent shall have added to it a penalty in accordance with the following: (1) twenty-one (21) days after date of invoice, a basic penalty of ten percent (10%) of the base invoice amount, not to exceed a maximum of Seventy-Eight Dollars (\$78); and (2) a ten-dollar (\$10) charge per letter of notification regarding payment delinquency or continued noncompliance with this Ordinance.

Penalties charged under this section shall not accrue to those invoices successfully appealed, provided the District receives written notification of said appeal prior to the payment due date.

Payment of disputed charges is still required by the due date during District review of any appeal submitted by FSEs.

#### SECTION 28: COLLECTION OF DELINQUENT ACCOUNTS

Collection of delinquent accounts shall be in accordance with District's policy resolution establishing procedures for collection of delinquent obligations owed to District, as amended from time to time by the Board of Directors. Any such action for collection may include an application for an injunction to prevent repeated and recurring violations of this ordinance.

**SECTION 29: JUDICIAL REVIEW**

Pursuant to Section 1094.6 of the California Code of Civil Procedure, District hereby enacts this part to limit the time within which an action can be brought, for review of such decisions by means of administrative mandamus, to ninety (90) days following final decisions in adjudicatory administrative hearings.

**Section 29.1:** Definitions. As used in this section, the following terms and words shall have the following meanings:

(1) "Decision" shall mean and include adjudicatory administrative decisions that are made after hearing.

(2) "Complete record" shall mean and include the transcript, if any exists, of the proceedings, all pleadings, all notices and orders, any proposed decision by District's officers, agents, or employees, the final decision, all admitted exhibits, all rejected exhibits in the possession of District or its officers, agents or employees, all written evidence, and any other papers in the case.

**Section 29.2:** Time Limit for Judicial Review. Judicial review of any decision of District or its officer or agent may be made pursuant to Section 1094.5 of the Code of Civil Procedure only if the petition for writ of mandate is filed not later than the ninetieth (90th) day following the date on which the decision becomes final. If there is no provision for reconsideration in the procedures governing the proceedings or if the date is not otherwise specified, the decision is final on the date it is made. If there is provision for reconsideration, the decision is final upon the expiration of the period during which such reconsideration can be sought; provided that if reconsideration is sought pursuant to such provision the decision is final for the purposes of this section on the date that reconsideration is rejected.

The complete record of the proceedings shall be prepared by District's officer or agent who made the decision and shall be delivered to the petitioner within ninety (90) days after filing the written request. District may recover from the petitioner the actual costs for transcribing or otherwise preparing the record.

If the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition, pursuant to Section 1094.5 of the Code of Civil Procedure, may be filed shall be extended to not later than the thirtieth (30th) day following the date on which the record is either personally delivered or mailed to the petitioner or the petitioner's attorney of record, if appropriate.

In making a final decision, District shall provide notice to the party that Section 1094.6 of the Code of Civil Procedure governs the time within which judicial review must be sought.


Notwithstanding the foregoing in this section, and pursuant to Government Code Section 54740.6, judicial review of an order of the Board of Directors imposing administrative civil penalties pursuant to this ordinance may be made only if the petition for writ of mandate is filed not later than the thirtieth (30th) day following the day on which the order of the Board of Directors becomes final.

SECTION 30: SEVERABILITY


If any section, subsection, subdivision, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire ordinance or any of the remaining portions hereof. The Board of Directors hereby declares that it would have passed this ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sees, clauses or phrases be declared unconstitutional or otherwise invalid.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District at a regular meeting this 10th day of December, 2013, by the following roll call vote:

AYES: EVANS, HERNANDEZ, POLTL, MARTIN  
NOES:  
ABSENT:  
ABSTAIN:

  
\_\_\_\_\_  
Hal Martin, President  
Board of Directors  
Vallecitos Water District

ATTEST:

  
\_\_\_\_\_  
Dennis O. Lamb, Secretary  
Board of Directors  
Vallecitos Water District