

RESOLUTION NO. 2011-295

A RESOLUTION OF THE SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT ESTABLISHING NONCOMPLIANCE FEES FOR VIOLATIONS OF THE FAT, OILS, AND GREASE ORDINANCE

The Board of Directors of the South San Luis Obispo County Sanitation District does ordain as follows:

RECITALS

WHEREAS, the South San Luis Obispo County Sanitation District (District) operates a wastewater treatment facility and maintains trunk lines that service the City of Arroyo Grande, City of Grover Beach, and the Oceano Community Service District (Member Agencies); and

WHEREAS, the State Water Resources Control Board adopted Water Quality Orders No. 2006-0003-DWQ and 2008-0002-EXEC on May 2, 2006 and February 20, 2008, respectively, for Publicly Owned Treatment Works; and

WHEREAS, these Orders require the development and implementation of a Sewer System Management Plan (SSMP); and

WHEREAS, a Fats, Oils, and Grease (FOG) Control Program is a mandatory element of the SSMP; and

WHEREAS, the Board of Directors of the District adopted the FOG Ordinance on October 18, 2008, creating a FOG Control Program for food service establishments (FSEs) in the District, which requires a permit for sewer discharges that could contain FOG and imposes requirements for the monitoring and elimination of FOG from discharges for such establishments; and

WHEREAS, Article 6 of the FOG Ordinance authorizes the adoption by resolution of Noncompliance Fees to compensate the District and its Member Agencies for costs of additional inspections and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the continued noncompliance; and

WHEREAS, the District has determined a need based upon the magnitude of expenses for enforcement regarding noncompliance with the FOG Ordinance; and

WHEREAS, the District has prepared an analysis which demonstrates the amount of cost required to provide the services for which the District's Noncompliance Fees are imposed; and

WHEREAS, based on the facts and analysis prepared by the District and the Staff Report, the Board of Directors finds:

- A. The public meetings adopting this Resolution have been properly noticed pursuant to California Government Code § 54950, *et seq.* (The Ralph M. Brown Act); and
- B. That notice has been published and mailed as required by law; and
- C. The fees that are the subject of this Resolution do not exceed the estimated reasonable cost of providing the services for which the fees and/or charges are imposed; and
- D. That the public benefits from the logical, long-range approach to the operation, maintenance, and financing of public facilities.

NOW THEREFORE, be it resolved and judged and determined that the District Noncompliance Fees structure shall be as follows:

SECTION 1. NONCOMPLIANCE FEES

This section sets forth and establishes the following noncompliance classification and associated fee for South San Luis Obispo County Sanitation District’s Fats, Oils, and Grease Ordinance:

Table 1: Noncompliance Fee Schedule

Noncompliance Classification	Noncompliance Fee
Notice of Violation Fee	\$ 125.00

FSEs will be charged this Notice of Violation Fee upon issuance of a written Notice of Violation, which a FSE receives when it is noncompliant during their FOG re-inspection.

All other enforcement actions and activities are subject to the following fee:

$$Fee = (Staff\ Time \times Staff\ Hourly\ Rate) + Cost\ of\ Materials + 15\% \text{ District Overhead Fee}$$

The Board of Directors of the District hereby determines that it is necessary for the effective operation of the District to fund all noncompliance and hereby orders these fees to be implemented as set forth in this Resolution.

SECTION 2. ENABLING AUTHORITY

This Regulation is adopted under the authorization of the California Health and Safety Code § 4700, *et seq.*

SECTION 3. RECITALS

The Recitals to this Resolution are true and correct and incorporated herein by reference.

SECTION 4. APPLICATION

This Resolution shall apply to all users of the Publicly Owned Treatment Works.

SECTION 5. REPEAL OF PRIOR ORDINANCES AND RESOLUTIONS

All Ordinances, sections of Ordinances, and Resolutions that are inconsistent with this Resolution are hereby repealed.

SECTION 6. REFERENCE TO SPECIFIC ORDINANCES

Whenever a reference is made to this code as “Resolution No. 2011-295” or to any portion thereof, or to any ordinance the South San Luis Obispo County Sanitation District, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

SECTION 7. EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the District shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date, hereof, nor be construed as a waiver of any license, fee or penalty at the effective date due and unpaid under such ordinances, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal validity of any bond or cash deposit in lieu thereof required to be posed, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

SECTION 8. ARTICLE, CHAPTER, AND SECTION HEADINGS

Article, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article, chapter or section hereof.

SECTION 9. CEQA FINDINGS

The Board of Directors of the District finds that the fees adopted by this Resolution are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resource Code § 21080(b)(8) and CEQA Guidelines, 14 CCR § 15273. The Board of Directors further finds that the adoption of the Rules and Regulations established by this Resolution fall within the activities described in 14 CCR § 15378(b)(4) and (5), which are deemed not to be “projects” for the purposes of CEQA, because it can be seen with certainty that the adoption of the Noncompliance Fees, which are the subject of this Resolution, will not have a significant effect on the environment. The District Administrator is directed to prepare and file an appropriate notice of exemption.

SECTION 10. SEVERANCE CLAUSE

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The Governing Board of the District hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION 11. RIGHT OF REVISION

The Board of Directors of the District may by resolution revise and adjust the amount of said Noncompliance Fees as shown in Section 1 of this Resolution.

SECTION 12. PAYMENT OF NONCOMPLIANCE FEES

Noncompliance fees shall be paid in full to the Member Agency in which the facility in violation is located.

SECTION 13. EFFECTIVE DATE

The Noncompliance Fees established by this Resolution shall be effective thirty (30) days from the date of final passage.

ADOPTED, SIGNED, AND APPROVED by the Governing Board of **SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT** this 21st day of December, 2011.



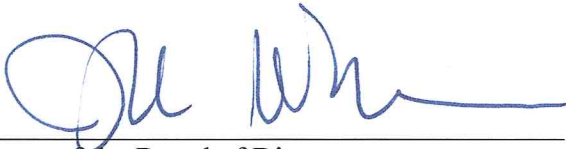
Chairman of the Board of Directors
South San Luis Obispo County Sanitation District

ATTEST:

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO) SS.
SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT)

I, John Wallace, Secretary of the Board of Directors of the South San Luis Obispo County Sanitation District, do hereby certify that Resolution No. 2011-295 is a full, true, and correct copy and was introduced and adopted at a regular meeting of the South San Luis Obispo County Sanitation District Board of Directors on the 21st day of December, 2011, by the following vote:

- AYES: Guerrero and Nicolls
- NOES: None
- ABSENT: Ferrara
- ABSTAIN: None



Secretary of the Board of Directors
South San Luis Obispo County Sanitation District