

**ORDINANCE NO. 22-04**

**SOQUEL CREEK WATER DISTRICT, COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA  
ESTABLISHING PROCEDURES FOR APPEALS OF ADMINISTRATIVE CITATIONS AND DECISIONS**

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THIS ORDINANCE is adopted in light of the following facts and circumstances, which are hereby found and declared by the Soquel Creek Water District ("District") Board of Directors:

WHEREAS, the Board of Directors has adopted various ordinances regulating the District's provision of water service to its customers; and

WHEREAS, the Board of Directors wishes to adopt generally applicable administrative citation and appeals procedures regarding the enforcement and interpretation of those ordinances as set forth below;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of Soquel Creek Water District as follows:

**Section 1. ADMINISTRATIVE CITATIONS**

1.1.1 Authority.

(a) Anyone violating any ordinance of the District may be issued an administrative citation by an enforcement officer as provided in this Section. Customers shall be responsible for all violations at their property.

(b) A fine shall be assessed by means of an administrative citation issued by the General Manager or designee. Fines shall be assessed in the amounts specified by resolution or ordinance of the Board of Directors or where no amount is specified, those amounts set forth in Government Code section 36900 or other applicable law.

1.1.2 Service. Administrative citations may be served personally or by mail. Service by mail shall be sent to the responsible person's address as shown on public records or as known to the District. If the administrative citation is sent by certified mail and returned unsigned, then service shall be deemed effective by first class mail, provided the administrative citation sent by the first class mail is not returned.

1.1.3 Contents of Notice. Each administrative citation shall contain the following information:

(a) Date, approximate time and address or definite description of the location where the violation(s) was observed and the person responsible for the violation(s);

(b) The Ordinance, section(s) or condition(s) violated, and a description of the violation(s);

(c) A description of the action required to correct the violation(s);

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(d) An order to the responsible person to correct the violation(s) by a correction date and an explanation of the consequences of failure to correct the violation(s);

(e) The amount of the fine for the violation(s) as well as any other fees or charges related to the violation, including but not limited to damage to District equipment or property, staff time responding to the violation, etc.;

(f) An explanation of how the fine shall be paid, the deadline by which it shall be paid, and the place to which the fine shall be paid;

(g) An order prohibiting the continuation or repeated occurrence of the Ordinance violation(s) described in the administrative citation;

(h) Identification of rights of appeal, including the time within which the administrative citation may be contested and the place to obtain a notice of appeal and request for hearing form to contest the administrative citation; and

(i) The name and signature of the enforcement officer and, if possible, the signature of the responsible person.

1.1.4 Satisfaction of Administrative Citation. Upon receipt of an administrative citation, the responsible person shall do the following:

(a) Remedy the violation(s) if the violation(s) is of such a nature that it can be remedied. If a nonemergency health or safety violation(s) is corrected before the correction date provided on the administrative citation, no fine shall be imposed;

(b) Pay the fine to the District within fifteen (15) calendar days from the correction date on the administrative citation. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the District.

1.1.5 Appeal of Administrative Citation.

(a) Any recipient of an administrative citation may appeal an administrative citation under the procedures set forth in this Section. In addition, requests for an appeal of an administrative citation shall be submitted with an advance deposit of the fine or an advance deposit hardship waiver request.

(b) Appeals shall be heard by the Board acting as the hearing officer or the Board may appoint a hearing officer to hear the appeal on its behalf. The hearing officer shall establish rules for the conduct of such appeals but formal rules of evidence shall not apply. Hearings shall occur within sixty days of a valid appeal request unless otherwise agreed to by the District and appellant.

(c) The Board's or hearing officer's decision shall be in writing.

(i) If the hearing officer determines that the administrative citation should be upheld, then the District shall retain the fine amount on deposit with the District.

(ii) If the hearing officer determines that the administrative citation should be upheld, and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set a fine payment schedule for the payment of the fine.

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(iii) If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the District, then the District shall promptly refund the amount of the deposited fine.

1.1.6 Advance Deposit Hardship Waiver. Any person who intends to request a hearing to contest an administrative citation and who is financially unable to make the advance deposit of the fine may file a request for an advance deposit hardship waiver.

(a) The request shall be filed with the Finance Department within five (5) days of the date of the issuance of the administrative citation.

(b) The requirement of depositing the full amount of the fine shall be stayed unless or until the Finance Manager makes a determination not to issue the advance deposit hardship waiver.

(c) The Finance Manager may waive the requirement for advance deposit only if the cited party submits to the Finance Manager a declaration, under penalty of perjury, supported by evidence that shows to the Finance Manager's reasonable satisfaction that such party is financially unable to deposit the total amount of the fine in advance of the hearing.

(d) If the Finance Manager determines not to issue an advance deposit hardship waiver, the cited party shall remit the deposit to the District within five (5) days of the date of that decision or fifteen (15) days from the date of issuance of the administrative citation, whichever is later.

(e) The Finance Manager shall list his or her reasons for granting or not granting an advance deposit hardship waiver in writing and serve it on the cited party. The Finance Manager's decision is final.

1.1.7 Right to Judicial Review. Any person aggrieved by a decision of a hearing officer may obtain review of the decision by filing a petition for review with the Santa Cruz County Superior Court in accordance with the timelines and provisions set forth in the Government Code and/or Code of Civil Procedure, as applicable.

## **SECTION 2. GENERAL APPEALS**

2.1.1. Right to An Appeal. In the event a customer wishes to dispute the applicability of any section or challenge any staff decision under any Ordinance, he or she shall follow these procedures unless a specific procedure is provided. This right to an appeal does not supersede or modify the process for requesting a variance as outlined in Resolution No. 74-55.

2.1.2 Request for an Appeal. Requests for an appeal shall be directed to the General Manager in writing. The General Manager shall perform such investigative work as deemed necessary and respond to the customer within fourteen (14) days. The response shall contain information obtained by the investigation and the decision of the General Manager.

2.1.3 Appeal to Board. Any person who is dissatisfied with a determination of the General Manager may, at any time within ten (10) days after such determination, appeal to the Board of Directors by giving written notice to the General Manager setting forth the determination with which the person is dissatisfied. The General Manager shall investigate and transmit to the Board a report

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upon the matter appealed. The Board shall cause written notice, as to the time and place fixed for hearing such appeal, to be given to all persons affected by such application at least ten (10) days prior to said appeal.

2.1.4 Hearing. At the time and place ordered in the hearing, the Board shall consider the appeal. The appeal is an evaluative, and not an adversarial, process to determine the facts of the issue and the appropriate application of this Ordinance. The Board, appellant and General Manager may provide any information deemed relevant to the issue and the Board's consideration. The Board's decision at the conclusion of the hearing shall be final.

**Section 3. SEVERABILITY**

If any section, sub-section, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 4. EFFECTIVE DATE**

This Ordinance shall become effective upon its adoption and shall be published as required by Water Code section 31027.

PASSED AND ADOPTED by the Soquel Creek Water District Board of Directors at its regular meeting held on the November 22, 2022, by the following vote:

AYES: Directors LaHue, Christensen, Daniels, Jaffe, and Lather  
NOES: None  
ABSENT: None  
ABSTAIN: None

APPROVED:

*Thomas R. LaHue*

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Dr. Thomas R. LaHue  
President of the Board of Directors

ATTEST:

*Emma Western*

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Emma Western  
Clerk to the Board of Directors