

# ORDINANCE NO. 6438

## AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, REPEALING CHAPTER 27 OF THE SONOMA COUNTY CODE AND AMENDING CHAPTER 24 OF THE SONOMA COUNTY CODE TO REPEAL OBSOLETE PROVISIONS AND CLARIFY CERTAIN PROVISIONS

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The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

**Section I. Purpose and Authority.** This ordinance is adopted pursuant to California Government Code Sections 25123 and 25131 in order to simplify, clarify, and update the County Code as it relates to Sewers and Sewage Disposal, and to repeal Chapter 27 of the County Code (Transport of Water for Domestic Use), which is now obsolete under State law.

**Section II. Chapter 27 Repeal.** Chapter 27 of the Sonoma County Code (Transport of Water for Domestic Use) is repealed.

**Section III. Chapter 24 Amendments.** Chapter 24 (Sewers and Sewage Disposal) of the Sonoma County Code is amended to read as set forth in Exhibit A.

**Section IV. Environmental Determination.** Adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15321 (Class 21) as an action to enforce violations of county code, ordinances, or other requirements and permits or approvals issued by the county, and pursuant to Section 15061(b)(3) (Common Sense) because it can be seen with certainty that there is no possibility that adoption of this ordinance to improve ongoing enforcement efforts may have a significant effect on the environment.

**Section V. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section VI. Effective date.** This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California. Pursuant to Government Code section 25124, complete copies of Exhibit "A" are on file with the Clerk of the Board of Supervisors and are available for public inspection and copying during regular business hours in the office of the Clerk of the Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa.

# **CHAPTER 24**

## **SEWERS AND SEWAGE DISPOSAL**

### **ARTICLE I. IN GENERAL.**

#### **Sec. 24-1. Purpose.**

The purpose of this chapter is to protect the environment, public health and safety, by regulating the disposal of sewage and other wastes.

#### **Sec. 24-2. Applicability.**

Unless otherwise provided, this chapter shall apply (1) in the unincorporated area in the county, and (2) within each incorporated city that has not appointed its own Health Officer.

#### **Sec. 24-3. Sewer Agency With Jurisdiction.**

“Sewer Agency With Jurisdiction” means an agency that owns and operates a public sewer collection system, and that regulates sewage disposal.

#### **Sec. 24-3. Regulation of Sewers**

Violation of a lawful ordinance, rule, or regulation of a “Sewer Agency With Jurisdiction” in the unincorporated area of the county is a violation of this chapter.

#### **Sec. 24-31. Waiver of minimum distance.**

Notwithstanding any provision of this code or the California Plumbing Code, the director of permit and resource management department may waive a requirement that a Building Sewer may not be installed less than twenty-five feet (25') from an existing water well when he or she determines that installation of a sewer will significantly lessen the existing risk of contamination of wells and will have no adverse environmental effect. The determination shall be based upon all relevant factors, including, but not limited to: location of the sewer pipe and likelihood of accidental rupture; impervious construction of the pipe; soil type; number of wells affected; location of pipe joints in relation to wells and type of pipe joints. This section shall not be interpreted to permit installation of sewer lines less than ten feet (10') from an existing well, nor shall it be deemed to permit installation of a water well closer than the distances otherwise required from an existing sewer pipe. Nothing in this section shall be construed as providing the director the authority to waive requirements, if any, of a Sanitary Agency With Jurisdiction, or to waive the requirements, if any, imposed by the Health Officer.

### **ARTICLE II. PRIVATE SEWAGE DISPOSAL.**

#### **Sec. 24-31.5. Standards for on-site waste water disposal systems.**

- (a) The director of the permit and resource management department may from time to time adopt and promulgate standards for on-site septic disposal systems. After July 1, 2023, amendments to these standards shall become effective after the Board of Supervisors approves the amendments via resolution.
- (b) The permit and resource management department director shall issue on-site septic disposal system permits pursuant to chapter 7, section 7-5, for systems that meet the standards adopted pursuant to this section.

## CHAPTER 24 - SEWERS AND SEWAGE DISPOSAL

### Article II. Private Sewage Disposal.

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- (c) Sea Ranch: OWTS in the area governed by Ordinance 3904 (enacted by County Service Area 41, Sea Ranch Zone 2, former County Service Area 6, Zone 2) are subject to the standards adopted pursuant to this section. The rights and duties of the Health Department in Ordinance 3904 shall instead be the rights and duties of the Permit and Resource Management Department. County permitting fees for OWTS shall apply in County Service Area 41, Sea Ranch Zone 2, but charges for operational permits issued pursuant to section 24-33 shall be governed by Ordinance 3905 (enacted by County Service Area 41, Sea Ranch Zone 2, former County Service Area 6, Zone 2). Notwithstanding anything to the contrary in Ordinance 3904 (enacted by County Service Area 41, Sea Ranch Zone 2, former County Service Area 6, Zone 2) the enforcement provisions of this chapter are applicable in the area governed by Ordinance 3904.

#### **Sec. 24-32. Nonstandard on-site wastewater disposal systems—Definitions.**

For purposes of this article, the following definitions shall apply:

- (a) "OWTS" means individual dispersal systems, community collection and dispersal systems, and alternative collection and dispersal systems that use subsurface dispersal. The short form of the term may be singular or plural. OWTS do not include "graywater" systems pursuant to the Health and Safety Code Section 17922.12. Commonly referred to as septic system(s).
- (b) "Supplemental treatment" means any OWTS or component of an OWTS, except a septic tank or dosing tank, that performs additional wastewater treatment so that the effluent meets a predetermined performance requirement prior to discharge of effluent into the dispersal field.
- (c) "Use" or "utilization" includes connecting or allowing a system to remain connected to a dwelling or other structure containing plumbing fixtures.
- (d) "Operational permit" means a permit issued for the operation of an OWTS, where required by section 24-33. The operational permit shall be a separate permit from the OWTS permit required by section 24-31.5.

#### **Sec. 24-33. Operational permit required.**

- (a) No person, firm, corporation or other entity shall use, or cause or allow the use of, any OTWS utilizing supplemental treatment unless a valid operational permit is in effect for such use. Use of an OTWS utilizing supplemental treatment without a valid operational permit or with a revoked operational permit is a public nuisance per se.
- (b) The board of supervisors shall establish a fee or schedule of fees for operational permits, to be collected by the director of permit and resource management department.
- (c) Upon payment of all fees and submission of an application which demonstrates to the director of permit and resource management department's satisfaction that the system meets the standards adopted pursuant to this chapter and will not significantly risk an adverse effect on ground or surface waters, or upon the public health, and will not risk a significant effect upon the environment, an operational permit shall be issued. Based on the compliance history for the OWTS and the operational permit, the permit resources management department director may require inspections every one (1), two (2), or three (3) years.
- (d) The director of permit and resource management department or his duly authorized representatives shall be granted a right to come on to the property of grantor and to bring associates and employees of the regional water quality control board to inspect and to monitor the OTWS utilizing supplemental treatment when needed. The right of access to the property to inspect and to monitor the OTWS utilizing supplemental treatment shall be conveyed to the county of Sonoma in the form of a recorded easement. The director of permit and resource management department or his duly authorized representative may release the

easement upon determination that connection to public sewer is made or when determined the easement is no longer required

#### **Sec. 24-34. Revocation.**

- (a) Any OWTS permit or operational permit issued pursuant to this article may be revoked by the director of the permit resources management department based upon findings that the system is in violation of this chapter, after providing 14 days prior notice to the permittee, which shall be served by certified mail or in person at the latest place of residence or of business reported by the permittee. Prior to the end of the 14 day notice period, the permittee must request a hearing if the permittee contests revocation. The permittee's hearing request must state in full all objections to revocation, and all objections not stated are waived. If a permittee requests a hearing, the director's decision whether to revoke shall be based on the evidence presented at the hearing.
- (b) If a non-compliant OWTS utilizing supplemental treatment is a risk to public health or the environment, or has been non-compliant with the requirements of this chapter for more than one year, then the county may revoke any permit for a structure or use that utilizes or depends upon the non-compliant OWTS, utilizing the revocation procedure for the structure or use.
- (c) A revoked OWTS permit or operational permit may be reinstated if the director of permit and resource management department determines that the violation has been cured, or a remedial plan to address the violation has been approved, and all costs of enforcement, including attorney fees, reinspection fees, and any of the costs described in Section 24-35 have been paid.

#### **Sec. 24-34.1. Related Permits.**

The county may refuse to issue any discretionary or ministerial permit, license, variance, or other entitlement, which is sought pursuant to this code, including but not limited to zoning clearance for a building permit, where the property upon which the permit, license, variance, or other entitlement is proposed is in violation of this chapter.

#### **Sec. 24-35. Abatement and Enforcement.**

Administrative abatement to remedy violations of this article shall be conducted pursuant to chapter 1 of this code. In any action, judicial or administrative, to enforce any provision of this code relating to on-site sewage disposal, the county may recover all of its costs of enforcement, including, but not limited to, any administrative overhead, salaries, and expenses incurred by the following departments: Department of Health Services, Permit Resources Management Department, County Counsel, and/or District Attorney. All such costs, if unpaid, may be enforced via a lien upon the property upon which the system is located. The director may issue a Notice to Vacate pursuant to section 1-7.3(b) for violation of this article with or without an abatement order pursuant to section 1-7.3(a).

#### **Sec. 24-36. Provisions cumulative.**

The provisions of this article are in addition to any other requirement for a permit for construction, alteration, or repair of a septic system.

#### **Sec. 24-37. IAPMO listing and UPC certification mark required.**

- (a) No person, firm, corporation, or other entity shall sell for use in Sonoma County, install, or cause or allow such sale or installation of any septic tank that does not meet or exceed current International Association of Plumbing and Mechanical Officials (IAPMO) material and property standards.

- (b) For purposes of this article, a septic tank is a water-tight receptacle which receives the discharge of a drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint piping or a seepage pit meeting the applicable requirements of the California Plumbing Code.

**Sec. 24-38. Prohibited activities directly above a septic tank site.**

No person, firm, corporation or other entity shall use or cause or allow the use of property above any septic tank (or container amenable for use as a septic tank but used as a sump, water tank or other water-tight underground receptacle) to support the weight of any object, including, but not limited to, motor vehicles, trailers, boats, improvements upon the property, construction materials, construction equipment, or any combination thereof, with a gross weight exceeding one thousand (1,000) pounds. Temporary weight loads in excess of what is permitted herein may be authorized by the Sonoma County permit and resource management department to the extent that adequate mitigating measures distributing the weight load upon the septic tank may be feasible and given prior approval by said agency.

**ARTICLE III. CLEANING SEPTIC TANKS, ETC.**

**Sec. 24-42. Purpose.**

The purpose of this Article is to implement the requirements of Division 104, Part 13, Chapter 4, Article 1 of the California Health and Safety Code, and this Article shall be enforced by the Health Officer or Health Officer's designee.

**Sec. 24-43. Permit required.**

No person shall engage in the business of cleaning cesspools, septic tanks, privies, and vaults and the removal of the contents thereof within the unincorporated areas of the county without first having obtained from the health department of the county a permit to do so as herein provided by this article.

The term "engaging in the business of cleaning cesspools, septic tanks, privies, and vaults and the removal of the contents thereof" as used in this article shall include but not be limited to any person who goes about from place to place with apparatus or equipment designed for cleaning cesspools, septic tanks, privies, composting toilets, and vaults, or who shall have an established place of business for such purpose and who shall make a charge for such services.

**Sec. 24-44. Same—Application.**

All persons who desire to engage in the business of cleaning cesspools, septic tanks, privies, and vaults and the removal of the contents thereof within the county shall file with the health department of the county a written application for a permit to do so. The Health Officer, or designee, must act on the application within 30 days.

**Sec. 24-45. Same—Investigation—Issuance—Fee—Bond generally.**

The health department of the county shall, upon receiving an application for a permit as provided for by Section 24-43 to investigate the kind and type of apparatus and equipment he or she intends to use in cleaning cesspools, septic tanks, privies, and vaults, the method of cleaning cesspools, septic tanks, privies, and vaults and the place or places to which the contents of any cesspool, septic tank, privy, or vault may be removed. If the health department is satisfied from such investigation, it shall issue a permit to the applicant upon the payment of a fee as established by resolution of the board of supervisors, and the giving of a personal or surety bond in the sum of one thousand dollars (\$1,000.00) conditioned for the faithful performance of all duties enjoined by this article or the health department of the county. Permits issued pursuant to this article are not transferable.

**Sec. 24-46. Same—Term; renewal.**

Any permit issued pursuant to this article shall be valid for a period of one year from the date of issuance unless thereafter revoked by order of the health department of the county as specified by this article, and any permit issued pursuant to this article may be renewed from year to year upon the filing of a written application, the payment of the fee and the giving of the faithful performance bond as provided for in section 24-45.

**Sec. 24-47. Same—Permittees subject to rules and orders of health department; grounds for revocation.**

Every person who obtains a permit as provided for in this article shall be subject to the rules and orders of the health department of the county in the following matters:

- (a) The manner of cleaning any cesspool, septic tank, privy, vault, or composting toilet.
- (b) The removal of the contents thereof and the place to which such contents are moved.

If any person shall refuse to obey and carry out the rules and orders of the health department in the manner herein specified, such refusal to obey and carry out such orders and rules shall be grounds for the revocation of the permit referred to and provided for in this article. Any revocation shall be made with 10 (ten) days notice, and such notice shall be served by registered mail or in person at the latest place of residence or of business reported by the permittee.

**Sec. 24-48. Action on bond upon violation of article, etc.**

In the event that the holder of a permit issued pursuant to the provisions of this article violates any of the provisions of this article or any rules or orders of the health department of the county, such violation shall permit the county at its option to resort to the faithful performance bond for the payment of a penalty in the sum of one thousand dollars.

**ARTICLE IV. DISCHARGE REGULATIONS.**

**Sec. 24-49. Applicability and definitions.**

The provisions of this article may be utilized to enforce articles 3 or article 4 of this chapter.

As utilized in this article, “department” means the permit resources management department or the department of health services, “director” means the director of the permit resources management department or the director of environmental health, and “Hearing Officer” means an individual appointed by the county pursuant to sections 2-33.1 through 2-33.5 to preside over an administrative hearing.

**Sec. 24-50. Regulations.**

- (a) Prohibitions on discharges. No person within the unincorporated area of the county shall discharge or cause a discharge, directly or indirectly, to a community sewer, a storm drain, a natural outlet, or surface waters, which causes, threatens to cause, or is capable of causing either alone or by interaction with other substances:
  - (1) a nuisance;
  - (2) a detrimental environmental impact or a nuisance in the waters of the state, or a threat to public health or safety;

(b) Other governmental agency jurisdictions. Nothing contained in this section shall be construed to limit any additional requirements that may be imposed by the Health Officer, by the regional water quality control board, by a Sanitary Agency With Jurisdiction, or by other governmental agencies having jurisdiction.

#### **Sec. 24-53. Enforcement.**

- (a) When the department finds that a discharge has taken place, in violation of article 3 or article 4 of this chapter, the director may issue an order to cease and desist, and direct those persons not complying with such prohibitions, limits, requirements, or provisions, to:
  - (1) Comply forthwith;
  - (2) Comply in accordance with a time schedule set forth by the department; or
  - (3) Take appropriate remedial or preventive action in the event of a threatened violation.Violation of an order issued pursuant to this subsection (a) is a violation of this chapter.
- (b) Any person affected by an action under this section, may file with the director a written request for reconsideration within ten (10) days of such action, setting forth in detail all of the facts and legal contentions that support the request for reconsideration. Failure to request reconsideration based on an objection waives the objection.
- (c) If the decision of the director is unsatisfactory to the person requesting reconsideration, the dissatisfied person may, within twenty (20) days after notification of the decision, file a written appeal with the department. The written appeal shall be heard by a Hearing Officer utilizing the procedures in section 1-7.3, subsections (h) and (i). Failure to file an appeal waives any objection to the action. The director's decision shall remain in effect pending the appeal.

#### **Sec. 24-54. Abatement.**

- (a) Public Nuisance. Discharges of wastewater in any manner that is in violation of article 3 or article 4 of this chapter is a public nuisance. Any person creating a public nuisance under article 3 or article 4 is guilty of a misdemeanor.
- (b) Injunction. Whenever a discharge is in violation of article 3 or article 4, the department may petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, in restraining the continuance of such discharge.
- (c) Civil Penalties. Any person who violates article 3 or article 4, or who discharges wastewater which causes pollution, or who violates any cease and desist order issued under this article, is liable for a civil penalty not to exceed six thousand dollars (\$6,000.00) for each day in which such violation occurs. The county may petition the superior court to impose, assess, and recover any penalty assessed pursuant to this provision.
- (d) Falsifying of Information. Any person who knowingly makes any false statements, representation, record, report, plan, or other document filed with the department with respect to article 3 or article 4 may be assessed a fine of not more than ten thousand dollars (\$10,000.00). Violation of this subsection is a misdemeanor.

#### **Sec. 24-55. Construction of sewers and sewer connections.**

- (a) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining written authorization from the Sewer Agency With Jurisdiction.
- (b) All construction of public sanitary sewers, of sewers to become public sanitary sewers, or of lateral service connection sewers shall conform to the design criteria, the standard plans, and specifications and the inspection and testing for sanitary sewers in accordance with the standards of the sewer agency with jurisdiction.