

TITLE 1

Chapter 1.01 Ordinance Adoption (Adopted 1/4/01)

1.01.01 Authority

This Ordinance is enacted pursuant of Sections 54343, 61600, 61621, 61621.5, 61622 and 60370 et. seq. of the Government Code.

1.01.02 Title—Citation—Reference

This Ordinance shall be known as the Los Osos Community Services District Code or District Code.

1.01.03 Copies of Ordinance

Three copies of the Los Osos Community Services District Code are filed for use and examination by the public in the office of the secretary of Los Osos Community Services District.

1.01.04 Title, Chapter and Section Headings

Title, 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 herein.

1.01.05 Repeal of Prior Regulations

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations or any County Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

1.01.06 Inconsistencies

Federal and State law shall supersede the provisions of this Ordinance. In the case of a conflict the Federal, then the State law shall prevail. Only in the case of a conflict shall a specific provision of this Ordinance be superseded. All other provisions shall remain in full force and effect and be enforced as specified herein.

1.01.07 Effect of Ordinance on Past Actions and Obligations

The adoption of this Ordinance does not affect prosecutions for Ordinance and resolution violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any prior Ordinance, Code or resolution adopted by the District.

1.01.08 Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the state of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The governing board of the District declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the state of California.

Chapter 1.02 General Provisions (Adopted 1/4/01)

1.02.01 General Rules of Interpretation and Application

The following rules of interpretation and application apply to this Ordinance and all future ordinances adopted by the District unless said future ordinances specifically states otherwise;

- A. Each gender includes the masculine, feminine and neuter genders.
- B. The singular number includes the plural and the plural includes the singular.
- C. Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.
- D. Whenever in this Ordinance any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.
- E. The time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Sunday or a holiday, in which case it shall also be excluded.
- F. The provisions of this Ordinance and all proceedings under them are to be construed with a view to effect their objectives and to promote justice.

G. The repeal of an Ordinance shall not repeal the repealing clause of an Ordinance or revive any Ordinance which has been repealed thereby.

H. The repeal of a Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of the repeal, does not waive any fee or penalty due and unpaid prior to the effective date of the repeal, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to a requirement of a repealed Ordinance.

1.02.02 Definitions

The following words and phrases, whenever used in this Ordinance and all future ordinances of the District, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to use of such words or phrases:

“Applicant” means the person making application for a permit for District services and shall be the owner of the premises to be served or bona fide non-resident property manager (authorized agent).

"Board" means the governing board of the Los Osos Community Services District. "All its members" or "all board members" mean the total number of board members holding office.

"Capacity charges" means charges for facilities in existence at the time the charge is imposed or charges for new facilities to be constructed in the future which are of benefit to the person or property being charged.

“Connection” means the pipeline and appurtenant facilities such as the curb stop, meter and meter box all used to extend water service from a main to premises, the lying thereof and the tapping of the main. Where services are divided at the curb or property line to serve several customers, each such branch shall be deemed a separate service.

“Contractor” means any individual, firm, corporation, partnership or association duly licensed by the State of California to perform the type of work done under the permit and shall be responsible to the owner or their agent.

"County" means the County of San Luis Obispo.

“Cross- Connections” means any physical connection between the piping system from the District service and that of any other water supply that may be forced or drawn into the District distribution mains.

“Delinquency” means accounts not paid within 25 days of billing.

"District" means the Los Osos Community Services District.

"District engineer" means the person holding the position of engineer for the District who shall administer and enforce the engineering aspects of the rules and regulations of the District.

"District facilities" means water mains, sewer mains, and appurtenant facilities such as lift stations, sewage pump stations, and booster pumps to establish pressure zones, that are either owned by the District or are to be constructed and dedicated to the District as a condition of service.

"District Standard Specifications and Drawings, or Los Osos Community Services District Standard Specifications and Drawings" means the Specifications and Drawings adopted by the District that provide minimum standards for design, methods of construction, kinds and uses of materials, and the preparation of plans for construction, repair or alteration of right of ways, concrete structures, drainage, sewerage, water supply, and other District facilities within the District, where any portion of such improvement is to be offered to the District for operation and/or maintenance.

"Fire Department" means the Board of Directors, together with the General Manager, the Fire Chief and other duly authorized representatives, performing functions related to District fire services.

"General Manager" means the person holding the position or acting in the capacity of General Manager of the District who shall be responsible for administering and enforcing the rules and regulations of the District.

"Law" denotes applicable federal law, the Constitution and statutes of the state of California, the Ordinances of the District, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

"Main" means a water line and/or sewer line located in a street, highway, alley, or easement used for public and private fire protection and for the general distribution of water and sewer service.

"May" and "should" are permissive.

"Month" means a calendar month.

"Must " and "shall" are each mandatory.

"Nuisance" means anything that is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or that affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

"Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the County Recorder's office, or the person in possession of the property or buildings under claim of, or

exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the owner.

"Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business, trust organizer, or the manager, lessee, agent, servant officer or employee of any of them.

"Personal property" includes money, goods, chattels, things in action and evidences of debt.

"Preceding" and "following" means next before and next after, respectively.

"Real property" includes lands, tenements and hereditaments.

"Residential Unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex, or a condominium.

"Service" means the furnishing of water, sewer and other services authorized in Government Code Section 61600 that may be adopted by the District.

"Service Line" and/or "Water Service Line" means a water line running from the water main to the meter box including the meter box but excluding any private plumbing.

"Sewer connection" means the connection of a building to the District sewer system.

"Sewer Department" means the Board of Directors, together with the General Manager, the Utilities Manager and other duly authorized representatives, performing functions related to District sewer services.

"Lateral" or "sewer lateral" means that part of the piping of a drainage system that extends from a public or private building, structure or facility and conveys wastewater to the point at which it enters the District sewer. This may extend beyond the boundaries of the property being served. (Adopted 3/5/2015)

"State" means the state of California.

"Storm Sewer" or "Storm Drain" means a conduit that carries storm and surface or ground waters and drainage, but excludes domestic and industrial wastewater.

"Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this District which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Temporary Water Service" means water service and facilities rendered for construction work and other uses of limited duration and the water available therefore.

"Tenant" and "occupant" applies to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

"Utility Department" means the generic department, under the supervision of the Utilities Manager, that provides water service, sewer service, drainage service, street lighting services, parks and recreation services, and other District services adopted by the Board of Directors.

"Water agency" means and includes public agencies, public utilities and mutual water companies.

"Water Department" means the Board of Directors, together with the General Manager, the Utilities Manager and other duly authorized representatives, performing functions related to District water services.

"Written" includes printed, typewritten, mimeographed, multi-graphed or an otherwise reproduced document in permanent visible form.

"Year" means a calendar year.

1.02.03 Board of Director Review

A. Exceptions: The District Board may, in specific cases, grant an exception from any provision of the standards incorporated into this Ordinance whenever it finds: (1) that special circumstances exist in a particular case, and (2) that practical difficulties or unnecessary hardship would result from strict interpretation and enforcement of any standard, and (3) that the granting of such a variance would not tend to defeat the purposes of this Ordinance, and (4) that the application for the exception has been timely filed. The Board may place conditions upon such exceptions.

B. Application for Exceptions: Any individual seeking an exception shall complete an exception application on the form provided by the District. A non-refundable fee as established in the District Resolution shall be paid by the applicant to the District for such exception to be considered by the Board.

C. District Fees: In no event will the District waive a rate or charge that is directly related to a District service. The Board may, on the basis of findings identified in Section 1.02.03A, allow a customer to pay for District fees and charges related to District service over time.

1.02.04 Judicial Review

A. Judicial Review: Judicial review of any decision made by the Board of Directors of the Los Osos Community Services District or any commission, officer or agent thereof, may be had only if the petition for writ of mandate pursuant to Code of Civil Procedure 1094.5 is filed within the time limit specified in Code of Civil Procedure 1094.6.

1.02.05. Enforcement

A. Violations, Misdemeanors and Infractions: It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Ordinance. A violation of any of the provisions or a failure to comply with any of the requirements shall constitute a misdemeanor except for those specifically declared by this Ordinance to be an infraction. Notwithstanding any other provision of this Ordinance, any misdemeanor violation or failure to comply may, in the discretion of the District Legal Counsel, be initially charged or subsequently prosecuted as an infraction. Each and every infraction violation is punishable by a fine not exceeding one hundred dollars for a first violation; a fine not exceeding two hundred dollars for a second violation of this Ordinance within one year; and a fine not exceeding five hundred dollars for a third violation of this Ordinance within one year. Each and every misdemeanor violation is punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provisions of this Ordinance is committed, continued, or permitted by such person and shall be punishable accordingly.

B. Violations: Aiding, Abetting and Concealing: Every person who causes, aids, abets, or conceals the fact of a violation of this Ordinance is guilty of a violation of this Ordinance.

C. Public Nuisance: Enforcement By Civil Action: In addition to the penalties provided in this Ordinance, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance shall be deemed a public nuisance and may be abated as such, and every day such condition continues shall be regarded as a new and separate offense.

D. Injunctive Relief: This Ordinance may also be enforced by injunction issued out of the superior court upon the suit of the District or the owner or occupant of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof.

E. Fees and Charges: The amount of any fee, service charge, or utility charge of any nature whatsoever imposed by any provision of this Ordinance shall be deemed a civil debt owing to the District. An action may be commenced in the name of the District in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service, charge, or utility charge together with any penalties applicable thereto as prescribed by this Ordinance.

F. Collection of Fees and Charges With Taxes: The Board of Directors hereby adopts the procedures for the collection of delinquent rates, charges, and fees established in Government Code Section 61621, 61621.2, 61621.3 and 61621.4 or any

successor statutes. The General Manager or his/her designees is authorized to record a certificate specifying the amount of such charges and fees and the name and address of the persons liable therefore, sixty days after the payment becomes delinquent, pursuant to Government Code Section 61621.

G. Remedies Cumulative: Remedies for collection and enforcement for nonpayment of delinquent rates, charges and fees are cumulative and may be pursued alternatively or consecutively by the District. The remedy prescribed by this section shall be cumulative, and District's use of any one of the remedies and/or legal actions prescribed herein shall not bar the use of any other remedy provided by this Ordinance or by law for the purpose of enforcing the provisions hereof.

H. Attorneys' Fees: In any civil action commenced by the District to abate a public nuisance, to enjoin a violation of any provision of this Ordinance, or to collect a civil debt owing to the District, the District shall be entitled to recover from the defendant in any such action reasonable attorneys' fees and costs of suit.

Chapter 1.03 Administrative Enforcement and Fines (Adopted 5/17/01)

1.03.10 Authority

The procedure set forth in this Chapter is authorized by Government Code Section 53069.4

1.03.20 Applicability

A. This chapter provides for administrative fines which are in addition to all other legal remedies, criminal or civil, which may be pursued by the District to address any violation of the Los Osos Community Services District Code.

B. The District may use this chapter in its absolute discretion.

C. Sections 1.03.03 and Sections 1.04.04 of Title 1 are not applicable to the procedures of this Chapter.

1.03.30 Definitions

A. *Administrative Costs* include any and all costs incurred by the District in enforcing compliance orders, including but not limited to, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all inspections necessary to enforce a compliance order.

B. *Hearing Officer* means the District General Manager or he/she may Appoint a department head of the affected Department as a Hearing Officer. However, in no event shall a Hearing Officer be the Compliance Officer.

C. *Compliance Officer* shall mean any official authorized or charged by the District Board of Directors to enforce any provision of the District Code.

D. *Responsible party* means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner, tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.

1.03.40 Compliance Order

A. Whenever the Compliance Officer determines that a violation of any Provision of the District Code within the Compliance Officer's jurisdiction is occurring or exists, the Compliance Officer may issue a compliance order to any responsible party.

B. A compliance order shall contain the following information:

- (1) The date and the location of the violation;
- (2) The Section of the District Code violated and a description of the violation;
- (3) The actions required to correct the violation;
- (4) The time period after which administrative fines will begin to accrue if compliance with the order has not been achieved;
- (5) Any responsible party that fails to comply within the time prescribed in the Compliance Order will be assessed the cost of subsequent inspections and administrative costs.
- (6) Amount of the administrative fees.
- (7) Either a copy of this chapter or an explanation of the consequences of noncompliance with this chapter and a description of the hearing procedure and appeals process.
- (8) The procedures for obtaining an exemption, if applicable, from the Department of Fish and Game, or other appropriate agency, if the Compliance Order requires weed abatement.
- (9) The name, signature and department of the person issuing the compliance order.

C. In the case of a violation that does not create and immediate danger to health or safety, a reasonable time not to exceed thirty (30) days shall be provided to remedy or correct the violation prior to the imposition of fines. In determining what is a reasonable time the Compliance Officer may consider the nature of the violation, and its affect on public health or safety.

1.03.50 Amount of Fines

A. Violations of compliance orders shall result in the following fines:

- (1) One hundred dollars (\$100.00) for each and every day the violation is continued or permitted to occur for the first violation.

- (2) Two hundred dollars (\$200.00) for each and every day the violation is continued or permitted to occur for the second violation of the same District Code Section within one year.
- (3) Five hundred dollars (\$500.00) for each and every day the violation is continued or permitted to occur for the third violation of the same District Code within one year.

B. The Board of Directors declares that each and every day of which any violation of the Compliance Order is committed, continued, or permitted shall be the subject of a separate fine.

1.03.60 Service of notices/orders; failure to receive notice/order.

A. All written notices/orders required to be given under the provisions of this Chapter may be served in the following manner:

- (1) By personal delivery, or
- (2) To the responsible party, by mailing a copy of the notice/order by certified mail, postage prepaid, return receipt requested to his or her address shown on the last equalized assessment roll available on the date the notice/order is prepared or at the address as known to the Compliance Officer. Service under this subsection shall be deemed complete five (5) days after deposit in the United States mail.

B. Where personal service or service by mail of the notices/orders Pursuant to Subsection (A) of this Section upon the responsible party is unsuccessful, the notice/order shall be posted conspicuously at the real property where the violation is occurring. A Notice of Hearing shall be posted not less than fifteen (15) days prior to the hearing referenced in the Notice; and

C. Notwithstanding any provision in this Section, service by mail may be made to any responsible party at any address authorized or requested by such person.

D. The failure of any person to receive any notice required under this Chapter, when such notice/order has been properly served, mailed, or posted under this Chapter, shall not affect the validity of any proceedings taken under this Chapter.

1.03.70 Hearing.

A. If the Compliance Officer determines that all violations have been corrected within the time specified in the compliance order, no further action shall be taken.

B. If compliance is not achieved within the time specified in the compliance order, the Compliance Officer shall advise the Hearing Officer who shall set the matter for hearing.

C. The Hearing Officer shall cause written notice to be served on the responsible party pursuant to 1.03.60 of this Chapter.

1.03.80 Notice of Hearing; Setting of hearing; failure to appear.

A. Every notice of hearing shall contain the time, date, and place at which the hearing will be conducted.

B. Except as provided in Subsection C below, the hearing date shall be not less than fifteen (15) days nor more than sixty (60) days from the date of the Notice of Hearing, unless the Compliance Officer determines that the matter is urgent or good cause exists for an extension of time.

C. The hearing date shall be shortened upon written request of the responsible party.

D. The failure of any person subject to a Compliance Order pursuant to this Chapter to appear at the hearing shall constitute an admission of the facts in the Compliance Order and shall constitute a failure to exhaust administrative remedies.

1.03.90 Hearing procedure – findings and order.

A. The hearing shall provide a full opportunity for the responsible parties subject to a Compliance Order to object to the determination that a violation occurred, that the violation has continued to exist or has recurred and/or that the person is responsible for creating, maintaining or fostering the violation.

B. The Administrative Order and any additional reports submitted by the Compliance Officer shall constitute prima facie evidence of the respective facts contained in those documents.

C. The Hearing Officer may continue the hearing and request additional information from the Compliance Officer or the responsible party prior to issuing a written decision.

D. Within fifteen (15) days following the conclusion of the hearing, the Hearing Officer shall make findings, and issue its determination regarding:

- (1) The existence of the violation.
- (2) The failure of the responsible party to take required corrective action within the time period stated in the compliance order.

E. If the Hearing Officer finds by the preponderance of evidence that a

violation has occurred and that the violation was not corrected within the time period specified in the compliance order, the Hearing Officer shall issue an administrative order pursuant to 1.03.100 of this chapter.

F. If the Hearing Officer finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the Hearing Officer shall issue a finding of those facts.

G. The person who received the compliance order shall be served, upon issuance, with the finding of facts and, if applicable, the administrative order referenced in 1.03.100 of this chapter. Service shall be made in the manner provided for in Section 1.03.60. In the case of a person who received a compliance order, asserted a prior restraint upon freedom of expression and requested an early hearing, the service shall be made within two (2) business days after the hearing.

H. If applicable, the Administrative Order shall state the date the payment of administrative costs and fines are due. Unpaid administrative costs and fines shall constitute a lien on the subject real property and shall run with the land.

1.03.100 Administrative Order

The administrative order described in 1.03.90 (F) may impose any or all of the following:

- A. An order to correct, including a schedule for correction where appropriate;
- B. Administrative fines as provided in 1.03.50 above.
- C. Administrative costs as provided in 1.03.30 (A) above.

1.03.110 Payment of Fines and Costs

Payment of fines and costs are due within thirty (30) days of service of the Administrative Order.

1.03.120 Failure to comply with administrative order.

A. Failure to pay the assessed administrative fines and administrative costs specified in the administrative order of the Hearing Officer may be enforced as:

- (1) A personal obligation of the responsible party and/or
- (2) A lien on the property.

B. Failure to comply with an Administrative Order to correct within the

time schedule shall constitute a second violation within the meaning of 1.03.50 (A) (2) above.

1.03.130 Satisfaction of lien.

Once payment in full is received by the District for outstanding liens and costs, the District Secretary shall either record a notice of satisfaction or provide the responsible party or financial institution with a notice of satisfaction so that they may record this notice with the Office of the County Recorder. Such notice of satisfaction shall cancel the District's lien.

1.03.140 Appeal.

Any person affected by the decision of the Hearing Officer may appeal the decision to the Superior Court of San Luis Obispo County within 20 days of the service of the Administrative Order. The appeal shall be governed by the provisions of Government Code Section 53069.4.