



March 5, 2020

TO: LOCSD Board of Directors

FROM: Ron Munds, General Manager

SUBJECT: Agenda Item 6E- 3/5/2020 Board of Directors Meeting
An introduction of an ordinance of the Board of Directors amending and restating Chapter 2.01.21 of Title 2 of the District Code to modify the utility billing adjustment procedures.

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DESCRIPTION

District Staff and legal Counsel have reviewed Chapter 2.01.21 of Title 2 of the District Code regarding leak adjustment to utility bills and are recommending a fundamental change to reflect that utility billing adjustment policies and procedures be adopted by the Board by resolution in lieu of providing prescriptive detail in the code.

STAFF RECOMMENDATION

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, Staff recommends that the Board adopt the following motion:

Motion: I recommend:

- 1. The Board approve the introduction and first reading of an Ordinance by title only amending Chapter 2.01.21 of Title 2 of the District's Code.***
- 2. Set the public hearing date for final adoption for April 2, 2020 and direct staff to publish the appropriate hearing notices.***

DISCUSSION

Currently, District code only allows for an adjustment on the customer's water bill if the leak is on the customer water service line and repaired in a timely manner. The adjustment is reviewed and approved at staff level, based on District policy. All customers have the option to present their concerns to the Board of Directors for a bill adjustment if they do not agree with the policy which has been the case over the last three Board meetings. At the January 9, 2020 Board meeting, staff received direction from the Board to review and discuss options of allowing an alternative credit adjustment policy for customers who experience unanticipated high water usage and higher than normal water bills.

To this end, staff is recommending that Title 2, Chapter 2.01.21 regarding leak adjustments be amended and restated to be less prescriptive in the code language. It is recommended that the code reference policies and procedure that will be approved by the Board by resolution and updated from time to time when necessary.

It is anticipated that staff will have revised policies and procedures for the Board to review and adoption at the April 2nd Board meeting. The Utilities Advisory Committee has been working on the policies and procedures and will complete their review at their March 18th meeting. In order to facilitate the changes in a timely manner, staff is recommending the Board proceed with the ordinance

amendment at this time and set the Public Hearing for the ordinance change for the April 2nd Board meeting.

FINANCIAL IMPACT

There is no direct financial impact associated with the recommended action. Depending on the final utility billing adjustment policies and procedures, future impacts could be more frequent billing adjustments resulting in higher dollar amount being credited.

Attachments

**LOS OSOS COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2020-02**

**AN INTRODUCTION OF AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT (DISTRICT)
AMENDING AND RESTATING CHAPTER 2.01.21 OF TITLE 2 OF THE DISTRICT CODE TO MODIFY UTILITY
BILLING ADJUSTMENT POLICIES AND PROCEDURES**

WHEREAS, The District is organized under Government code section 61000 as a Community Service District and has the authority to provide its residents with water for beneficial purposes under Government code Section 61100 (a).; and

WHEREAS, The Board of Directors directed staff with input from the Utilities Advisory Committee to amend the policies and procedures in which the District adjusts utility bills; and

WHEREAS, The Board recognizes that providing general language in Title 2 regarding utility billing adjustments will provide a more efficient means to address customer concerns in a timely manner; and

WHEREAS, The Board will consider such amendments and the adoption of a resolution approving the proposed policies and procedures at its April 2, 2020 Board meeting; and

WHEREAS, The Board of Directors has noticed this public meeting pursuant to Water Code § 375 and has considered the Staff Report and public testimony regarding the adoption of this Ordinance.

**NOW, THEREFORE BE IT RESOLVED, THE BOARD OF DIRECTORS OF THE LOS OSOS
COMMUNITY SERVICES DISTRICT HEREBY ORDAINS AS FOLLOWS:**

Section 1. Authority

This Ordinance is enacted pursuant to the California Government Code § 6100.

Section 2. Amendment and Restatement of Chapter 2.01.21

Chapter 2.01.21 of Title 2 of the District Code is hereby amended and restated as provided in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Environmental Review

The Board of Directors of the District finds that the adoption of the Amendment and Restatement of Section 2.01.21 of Title 2 of the District Code does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*) or its implementing Guidelines (14 California Code of Regulations Section 15000 *et seq.*) ("CEQA Guidelines"). The Board of Directors finds that the adoption of the Amendment and Restatement of Section 2.01.21 of Title 2 of the District Code constitutes "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of the Amendment and Restatement of Section 2.01.21 of Title 2 of the District Code is a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of the Amendment and Restatement of Section 2.01.21 of Title 2 of the District Code may have a significant effect on the environment.

The District General Manager is authorized to prepare, execute and file a notice of exemption, but is not required to do so.

Section 4. Findings

The Board of Directors hereby finds and determines as follows:

- a. The proposed changes in the District Code are necessary to grant fairness to all customers experiencing higher than normal utility bills.

Section 5. Repeal of Prior Ordinances and Resolutions

All Ordinances, sections of Ordinances and Resolutions that are inconsistent with Section 2 of this Ordinance are **hereby repealed**.

Section 6. Incorporations of Recitals

The Recitals are true and correct and incorporated here by this reference.

Section 7. 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 hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8. Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 9. Effective Date

This Ordinance shall take effect thirty (30) days from date of its passage hereof. Before the expiration of fifteen (15) days after the adoption of this Ordinance, Exhibit A shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a newspaper of general circulation within the District.

Introduced at its regular meeting of the Board of Directors held on March 5, 2020, and passed and adopted by the Board of Directors of the Los Osos Community Services District on the 2nd day of April 2020, by the following roll call vote, to wit:

Upon motion of Director _____, seconded by Director _____ and on the following roll call vote, to wit:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

Charles Cesena
President of the Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Ron Munds
General Manager and Secretary to the Board

Jeff Minnery
District Legal Counsel

TITLE 2

Chapter 2.01 General Regulations and Procedures Pertaining to District Water Service
(Adopted 1/4/01)

2.01.21 Utility Billing Adjustments Credits for Fixing Water Leak—(Adopted
12/4/2014)

A.—The District’s Board of Directors shall adopt, by resolution, utility billing adjustment policies and procedures.

~~Application: The General Manager shall make available to any customer an application form that customers can use to apply for a credit. The customer may apply if the current bill is 50% greater than normal usage during the same period the prior year. Prior to being considered for a leak adjustment, the customer must pay an amount equal to the same usage as the previous year or same usage as previous bill if they have not owned the home for a year. The customer may apply if they have experienced a water leak in their service line and can prove that such leak has been promptly corrected. Customer service lines are defined as the line from the water meter on the customer’s side to the home. Exemptions from credits include leaks in or malfunction of irrigation systems, toilets, and faucets. The application shall include:~~

~~The date of discovery of the leak;~~

~~The date of repair;~~

~~Evidence such as dated plumbing bills and receipts for materials and supplies related to the leak repair; and~~

~~The signature of the water customer.~~

~~Process: The General Manager shall review all application forms received by customers. The General Manager shall approve a credit of up to 50% of the differential of the highest billing period invoice during the tenure of the leak and the average of all invoices for said customer over the last twelve month period if the General Manager, in his/her discretion, finds:~~

~~The leak was related to a physical break in the customer’s service line; and~~

~~The leak was promptly repaired after the discovery; and~~

~~The customer has not received an LOCSD water leak credit during the preceding twenty-four (24) month period.~~

~~Disputes: Any customer that disputes a determination by the General Manager may seek Board of Directors review of said determination by paying the established fee and making written application to the Board of Directors, in care of the General Manager,~~

Exhibit A

~~within ten (10) business days of the General Manager's decision. The decision of the Board of Directors shall be final.~~

~~No leak adjustments will be given for incidents due to sewer lateral connection work.~~