

ORDINANCE NO. 17
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
COSUMNES COMMUNITY SERVICES DISTRICT
ADOPTING AN ADMINISTRATIVE CITATION PROCESS

WHEREAS, California Government Code Section 53069.4 authorizes local jurisdictions to, by ordinance, make violations of the Cosumnes Community Services District's ("District") ordinances subject to an administrative fine or penalty; and

WHEREAS, California Government Code Section 61064 provides that any violation of a District rule, regulation, or ordinance is a misdemeanor, a citation may be issued for such violation and processed as an infraction, and the Board of Directors may confer on designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or district rules, regulations, or ordinances when the violation is committed within a facility and in the presence of the District employee issuing the citation; and

WHEREAS, the enforcement of District ordinances is a matter of local concern and serves an important public purpose.

NOW, THEREFORE, the Board of Directors of the Cosumnes Community Services District does hereby ordain as follows:

SECTION 1. The Board of Directors hereby adopts the Administrative Citation Process set forth herein.

Article I. Administrative Citations.

- Section 1.1 Applicability.
- Section 1.2 Definitions.
- Section 1.3 Administrative Enforcement Authority.
- Section 1.4 Administrative Citation.
- Section 1.5 Abatement Procedure.
- Section 1.6 Amount of Fines.
- Section 1.7 Payment of Fines.
- Section 1.8 Recovery of Administrative Citation Fines and Costs.
- Section 1.9 Recovery of Abatement Costs.
- Section 1.10 Notices.

1.1 Applicability.

This Ordinance provides for administrative citations, which are in addition to all other legal remedies, criminal or civil, which the District may pursue to address a violation of the District Code. Use of this ordinance is at the sole discretion of the District. This ordinance is authorized under Government Code Sections 53069.4 and 61064.

1.2 Definitions.

“Administrative Citation” means a document issued by an Enforcement Officer to a person violating the provisions of the District Code.

“Administrative Order” means an order issued by a Hearing Officer after a hearing requiring a responsible person to correct violations, abate a public nuisance, pay administrative fines, civil penalties, and/or administrative costs, or authorize the District to abate a public nuisance, impose an Assessment Lien, or take any other action authorized by the District Code.

“Assessment Lien” means a lien recorded with the Sacramento County Recorder’s Office, or a special assessment filed with the Sacramento County Auditor-Controller’s Office, for the purposes of collecting outstanding administrative citation fines, civil penalties, and administrative costs imposed as part of a cost recovery, or administrative or judicial code enforcement action.

“Book of Fees” means the District’s Book of Fees Schedule, as initially adopted by Resolution No. 2021-23 on May 19, 2021, and as amended from time to time.

“Department Head” means the Department Head for each District department and any of their designated agents or representatives.

“District Code” means all District ordinances, rules, and regulations subject to enforcement under Government Code Section 61064, and any State or local laws applicable to the District.

“Enforcement Officer” means any person authorized by the District to enforce violations of the District Code including, without limitation, the Department Heads, fire prevention personnel, park rangers, and any employee designated by the General Manager.

“Hearing Officer” means a person designated by the General Manager or their designee to preside over administrative hearings.

“Notice of Satisfaction” means a document or form, which indicates that all outstanding civil penalties and costs have either been paid in full, or that the District has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt.

“Notice of Violation” means a written notice that informs a responsible person of District Code violations on the subject property in accordance with Section 1.3.

“Responsible person” means a person who a Department Head determines is responsible for causing, permitting, or maintaining a public nuisance or a violation of the District Code. The term “responsible person” includes, but is not limited to, an Owner or person with a legal interest in the subject property, person in possession of the subject property, or person that exercises custody and control over the subject property.

“Shall” is mandatory and “may” is permissive. However, the use of the word “shall” in this Ordinance is not intended and does not impose any mandatory duty to third parties by the District, its board, officials, agents, or employees, and is not intended and does not impose any liability on the District, its board, officials, agents, or employees.

1.3 Administrative Enforcement Authority.

- A. If a violation pertains to building or other structural issues that do not create an immediate danger to health or safety, the District shall provide a reasonable period of time, as determined in the District's sole discretion, for the person responsible for a continuing violation to correct or otherwise remedy the violation before the imposition of an administrative citation or penalty under this Ordinance.
- B. Before issuing an Administrative Citation, the enforcement officer shall give a Notice of Violation to the person responsible in accordance with Section 1.10. The Notice of Violation shall state:
 1. the date and location of the violation;
 2. the section(s) of the code violated;
 3. a description of the violation(s);
 4. the actions required to correct the violation(s); the time period allowed for correcting the violation(s);
 5. a statement that an administrative citation may be issued each day after the time for correction has passed, if correction is not completed;
 6. the amount of the fine if an administrative citation is issued; and
 7. either a copy of this chapter or an explanation of the consequences of noncompliance and a description of the hearing procedure and appeal process.
- C. The Enforcement Officer shall allow at least fifteen (15) calendar days from the date the first (1st) notice is sent for compliance with the notice. If the nature of the condition is such that compliance is very complicated or expensive, and the condition is not an immediate threat to health or safety, the Enforcement Officer may extend the compliance period to thirty (30), sixty (60) or ninety (90) days, depending upon the circumstances and in the Enforcement Officer's reasonable discretion.
- D. If the Enforcement Officer determines that all violations have been corrected within the time specified in the notice, no further action shall be taken.

1.4 Administrative Citation.

- A. Authority. Enforcement Officers have the authority and powers necessary to determine whether a violation of the District Code exists and the authority to take appropriate action to gain compliance with the provisions of the District Code. These powers include the power to issue Notices of Violation, Administrative Citations, the power to inspect public and private property, and use the administrative remedies which are available under the District Code.
- B. Contents of Citation. An Administrative Citation shall contain the following information:
 1. The date of the violation, or date the violation was observed;

2. The address or a definite description of the location where the violation occurred;
3. The section of the District Code violated and a description of the violation;
4. The amount of the fine for the violation;
5. A description of the fine payment process, including a description of the time within which, and the place to which, the fine shall be paid;
6. An order prohibiting the continuation or repeated occurrence of the violation described in the citation;
7. A description of the Administrative Citation review process, including the time within which the Administrative Citation may be contested and the place from which a request-for-hearing form may be obtained to contest the citation; and
8. The name and signature of the Enforcement Officer.

C. Delivery of Citation. The Administrative Citation shall either be delivered in accordance with Section 1.10 to the person responsible for the violation.

1.5 Abatement Procedure

- A. Purpose. The Board of Directors finds that it is necessary to establish appropriate procedures for the administrative and summary abatement of public nuisances and code violations. The procedures established in this Section 1.5 are in addition to any other legal remedy, criminal or civil, established by law or District Policy which may be pursued to address violations of the District Code.
- B. General Procedures. Whenever the Department Head determines that public or private property or any portion of public or private property is a public nuisance under the District Code, the Department Head shall comply with the abatement notice and procedures adopted by the Board of Directors through District Policy.
- C. Abatement of Nuisance. Once a Department Head has complied with the procedures for noticing a nuisance and the time for compliance has lapsed, if the violation remains, the nuisance conditions may be abated by District personnel or by a private contractor. The Board of Directors shall set forth the process for abatement by District Policy.
- D. Authority. Whenever the Department Head determines that an imminent health and safety hazard exists that requires immediate correction or elimination, the Department Head may exercise any and all powers authorized by federal, state, or local law without prior notice to the responsible person, including but not limited to the following:
 1. Order the immediate vacation of any tenants and prohibit occupancy of the subject property until all repairs are completed;
 2. Post the premises as unsafe, substandard, or dangerous;
 3. Board, fence, or secure the building or site;
 4. Raze and grade that portion of the premises or site to prevent further collapse and remove any hazard to the general public;

5. Make any minimal emergency repairs as necessary to eliminate any imminent health and safety hazard; or
Take any other action as appropriate under the circumstances.

1.6 Amount of Fines.

- A. Purpose. The Board of Directors finds there is a need to recover costs incurred by the District in its code enforcement efforts, including time spent by District personnel inspecting and reinspecting properties throughout the District, preparing and posting notices as required under the District Code, and preparing for and conducting administrative hearings. The Board finds that the assessment of fines pursuant to this Ordinance is an appropriate method to recover costs incurred for the additional work that is undertaken by District staff when a responsible person fails to voluntarily correct code violations on their property in a timely manner.
- B. Maximum Amount of Fine. The maximum amount of the fine for each violation imposed under this Ordinance shall be established in the Book of Fees, which may be amended from time to time by resolution. The schedule of fines shall specify:
 1. Any increased fines for repeat violations of the same code provision by the same person within a twelve (12) month period; and
 2. Any late payment charges imposed for the payment of a fine after its due date.
- C. Additional Amounts. Administrative costs, interest, late payment charges, re-inspections fees, and collection costs are in addition to the fines.
- D. Factors in Establishing Fine.
 1. *Enforcement Officer.* When preparing the Administrative Citation, the Enforcement Officer shall set the fine at the maximum fine established by the Book of Fees.
 2. *Hearing Officer.* Upon request before or at the hearing, the Hearing Officer may, in their sole discretion, reduce the amount of the fine based on the following factors: a) the duration of the violation; b) the frequency, recurrence and number of violations, related or unrelated, by the same violator; c) the seriousness of the violation; d) the good faith efforts of the violator to come into compliance; and e) the impact of the violation on the community.

1.7 Payment of Fines.

- A. Due Date. The fine shall be paid to the District within thirty (30) days from the date of the Administrative Citation. The District General Manager or their designee may suspend the imposition of fines for any period of time during which the violator has filed for necessary permits, and such permits are required to achieve compliance, and the permit applications are actively pending before the appropriate governmental agency.
- B. Refund. The District shall refund a fine paid if the hearing officer determines, after the hearing, that the person charged in the citation was not responsible for the violation or that there was no violation as charged.
- C. Further Violations Not Excused. Payment of a fine under this Ordinance shall not excuse or discharge any continuation or repeated occurrence of the code violation.
- D. Late Payment. A person who fails to pay to the District any fine imposed under this Ordinance on or before the due date is liable for payment of any applicable late payment charges set forth in the Book of Fees.

1.8 Recovery of Administrative Citation Fines and Costs.

- A. A person who fails to pay any fine or other charge owed to the District under this Ordinance is liable in any action brought by the District for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees. Such collection costs are in addition to any fines, interest, and late charges.
- B. In addition to the administrative citation fine, the District may collect its administrative costs, interest, late payment charges, costs of compliance re-inspections, and collection costs.
- C. The District may collect any past due administrative citation fine and other costs and charges by any available legal means.

1.9 Recovery of Abatement Costs.

- A. The total costs for abating a declared nuisance, as described in Section 1.5, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of a notice of lien, as so made and confirmed, shall constitute a lien on the property for the amount of such assessment.

After such confirmation and recordation, a certified copy of the Board of Director's decision shall be filed with the county auditor-controller on or before August 1st of each year, whereupon it shall be the duty of the auditor-controller to add the amounts of the respective assessments to the next regular tax bills levied against and respective lots and parcels of land for

municipal purposes and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment. In the alternative, after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

Such notice of lien for recordation shall be in form substantially as follows:

Notice of Lien

(Claim of the Cosumnes Community Services District)

Pursuant to the authority vested by Ordinance No. _____, the General Manager of the Cosumnes Community Services District did on or about the _____ day of _____, 20_____, cause the property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on said real property; and the Board of Directors of the Cosumnes Community Services District did on the _____ day of _____, 20_____, assess the cost of such hereinafter described; and the same has not been paid nor any part thereof; and that the Cosumnes Community Services District does hereby claim a lien on such rehabilitation, repair or demolition in the amount of said assessment, to wit, the sum of \$_____, and the same, shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying within the District's jurisdiction and being in the (City of Elk Grove/Galt or unincorporated land in County of Sacramento), County of Sacramento, State of California, and particularly described as follows:

(description)

Dated this _____ day of _____, 20_____.

General Manager

B. Once payment in full is received for the outstanding civil penalties and costs or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Department Head shall, within ten days from the date payment is made or decision is final, record a notice of satisfaction with the Sacramento County recorder's office. The notice of satisfaction shall include the same

information as provided for in the original Assessment Lien. Such notice of satisfaction shall cancel the Assessment Lien.

1.10 Notices.

- A. Method of Service. The Administrative Citation and all notices required to be given by this Ordinance shall be served on the responsible party either by personal service or by certified mail, return receipt requested.
- B. Real Property. When real property is involved in the violation, the Notice of Violation, the Administrative Citation, and all notices required to be given by this Ordinance shall be served on the responsible party and, if different, to the property owner at the address as shown on the last equalized County assessment roll. If service in accordance with Section 1.10(A) on the property owner is unsuccessful, a copy of each notice and the citation shall be conspicuously posted at the property which is the subject of the violation. The District may, in its discretion, also serve notice on a tenant, a mortgagor, or any other person having an interest in the property.
- C. Failure to Receive Notice. The failure of a person to receive a required notice shall not affect the validity of any proceedings taken or fines imposed under this Ordinance.

Article II. Administrative Hearing.

- Section 2.1 Administrative Hearing Procedures.
- Section 2.2 Procedures for requesting an appeals hearing.
- Section 2.3 Procedures for notification of administrative hearing.
- Section 2.4 Procedures at administrative hearing.
- Section 2.5 Failure to attend administrative hearing.
- Section 2.6 Administrative order.
- Section 2.7 Failure to comply with the administrative order.
- Section 2.8 Deferral or Waiver of Appeal Fees.

Section 2.1 Administrative Hearing Procedures

- A. Procedures. These sections establish the procedures for the use of Hearing Officers and the procedures governing administrative hearings.
- B. Qualifications of Hearing Officer. District Counsel shall promulgate rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the District as hearing officers.
- C. Appointment of Hearing Officer. Hearing officers presiding at administrative hearings shall be appointed by District Counsel and compensated by the District. District Counsel shall develop policies and procedures relating to the appointment and compensation of hearing officers.

D. Disqualification of Hearing Officer. Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of a hearing officer shall be promulgated by District Counsel.

E. Powers of Hearing Officer.

1. The hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.
2. The hearing officer, upon receipt of a written request which is submitted no later than five days before the hearing, shall subpoena witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. District Counsel shall develop policies and procedures relating to the issuance of subpoenas in administrative hearings, including the form of the subpoena and related costs.
3. The hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of granting a continuance, ensuring compliance with an administrative order, modifying an administrative order, or where extraordinary circumstances exist granting a new hearing.
4. The hearing officer has the authority to require the responsible person to post a code enforcement performance bond to ensure compliance with an administrative order.

F. Failure to Obey Subpoena. It is unlawful for any person to refuse to obey a subpoena issued by a hearing officer.

Section 2.2 Procedures for Requesting an Appeals Hearing

- A. A person served with an administrative citation may file an appeal within ten calendar days from the service of the notice:
- B. The appeal shall be made in writing stating the grounds for the appeal and filed with the Department Head on or before the tenth day after service and shall be accompanied by the appeal fee as adopted by the Board of Directors.

Section 2.3 Procedures for notification of administrative hearing

- A. Where an administrative remedy or proceeding provides for an appeal procedure, the Department Head shall request the District Counsel to appoint a hearing officer and to schedule a day, time, and a place for the hearing.

- B. Written notice of the time and place of the hearing shall be served at least ten calendar days prior to the date of the hearing to the responsible person.
- C. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by District Counsel.
- D. The notice of hearing shall be served by any of the methods of service listed in this Ordinance.

Section 2.4 Procedures at administrative hearing

- A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the District Counsel.
- B. The District bears the burden of proof at an administrative hearing to establish the existence of a violation of the District Code.
- C. The standard of proof to be used by the hearing officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.
- D. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

Section 2.5 Failure to attend administrative hearing

Any responsible person who requests a hearing or whose actions are the subject of an administrative hearing and who fails to appear at the hearing is deemed to have waived the right to a hearing and the adjudication of the issues related to the hearing, provided that the hearing was properly noticed.

Section 2.6 Administrative order

- A. The decision of the hearing officer shall be entitled "Administrative Order" and shall be issued in accordance with this Ordinance and District Code.
- B. Once all evidence and testimony are completed, the hearing officer shall issue an administrative order, which affirms, modifies, or rejects the Department Head's action.
- C. The hearing officer may issue an administrative order that requires the responsible person to cease from violating the District Code and to make necessary corrections within a specific time frame.
- D. As part of the administrative order, the hearing officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial

- assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.
- E. The hearing officer may issue an administrative order, which imposes additional civil penalties that will continue to be assessed until the responsible person complies with the hearing officer's decision and corrects the violation.
- F. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative order.
- G. The administrative order shall become final on the date of service of the order.
- H. The administrative order shall be served on all parties by any one of the methods listed in this Ordinance.

Section 2.7 Failure to comply with the administrative order.

- A. After the Hearing Officer issues an administrative order, the Department Head shall monitor the violations and determine compliance.
- B. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative order, the Department Head may use all appropriate legal means to recover the civil penalties, administrative costs, and obtain compliance with the administrative order, including seeking an injunction.
- C. Failure to comply with an administrative order constitutes a misdemeanor.

Section 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the District or any officer or employee thereof a mandatory duty of care towards persons and property within or without the District, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance would establish a program to allow for code enforcement and does not propose nor authorize any action that would have the potential to cause a significant adverse effect on the environment. Thus, it can be established with certainty that this Ordinance will not have a significant adverse effect on the environment and is therefore not subject to CEQA. Pursuant to the foregoing, a Notice of Exemption has been prepared and completed in accordance with CEQA.

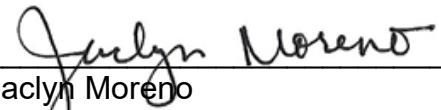
Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid

provision or application, and to this end the provisions of this Ordinance are severable. This Board of Directors hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 5. Effective Date, Expiration and Publication. This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance, within fifteen (15) days after its passage, a summary of the ordinance shall be published at least once in a newspaper of general circulation published and circulated within the Cosumnes Community Services District.

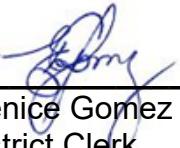
PASSED AND ADOPTED this 2nd day of February 2022 by the following vote:

AYES: Albiani, Brewer, Fuentes, Luttrell, Moreno
NOES: None
ABSENT: None
ABSTAIN: None



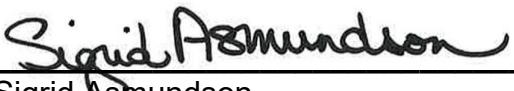
Jaclyn Moreno
President

ATTEST:



Elenice Gomez
District Clerk

APPROVED AS TO FORM:



Sigrid Asmundson
District Counsel