

ORDINANCE NO. O2022-06

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE RANCHO MURIETA COMMUNITY SERVICES DISTRICT
ADDING DISTRICT CODE CHAPTER 9 REGARDING
ADMINISTRATIVE CITATIONS AND FINES**

The Board of Directors of the Rancho Murieta Community Services District hereby ordains as follows:

SECTION 1. PURPOSE AND AUTHORITY. The purpose of this ordinance is to adopt a new District Code chapter concerning the issuance of administrative citations for violations of the District Code, collection of fines, and related matters. The objective is to enhance the District's ability to enforce its Code through a local citation and fine process. This ordinance is adopted pursuant to Government Code sections 53069.4 and 61060 and other applicable law.

SECTION 2. CODE AMENDMENT

Chapter 9 is added to the District Code to read as follows:

Chapter 9 - Administrative Citations and Fines

Sections:

SECTION 1.00 General Provisions

- 1.01 Definitions
- 1.02 Applicability
- 1.03 Notices

SECTION 2.00 Citations and Fines

- 2.01 Preliminary Notice Procedure for Continuing Violation
- 2.02 Citation Issuance
- 2.03 Amount of Fines
- 2.04 Payment of Fines
- 2.05 Late Payment Charges and Interest
- 2.06 Collection of Fines, Late Charges, Interest, and Costs

SECTION 3.00 Administrative Hearings

- 3.01 Request for Administrative Hearing
- 3.02 Hearing Officer
- 3.03 Administrative Hearing Procedure
- 3.04 Hearing Officer Decision
- 3.05 Judicial Review

SECTION 1.00 - General Provisions

1.01 Definitions

- a. "Cited Person" means a person who violates the Code or who is otherwise responsible for a Code violation and who is named in an administrative citation issued and served pursuant to this chapter.
- b. "Code" means the District Code of the Rancho Murieta Community Services District, including any adopted ordinance amending the District Code but not yet incorporated into the District Code.
- c. "Continuing Code Violation" means a continuing or ongoing violation of the Code that pertains to a building or structure or use of real property in the District and that does not create an immediate danger to public health or safety.
- d. "County" means County of Sacramento.
- e. "District" means Rancho Murieta Community Services District.
- f. "Enforcement Officer" means the District Security Supervisor, any District patrol officer, or any District employee authorized by the General Manager to issue administrative citations under this chapter.
- g. "General Manager" means the District General Manager or his or her designee.

1.02 Applicability

This chapter provides for the issuance of administrative citations and collection of fines to enforce any violation of this Code as a means and remedy to enforce compliance with the Code. The chapter applies to buildings, structures, and real property within the District, to persons residing and owning real property within the District, and to other persons who violate the Code while in the District. The remedies provided by this chapter are in addition to all other criminal and civil remedies that may be available for the District to pursue under other laws. Use of this chapter shall be at the sole discretion of the District.

1.03 Notices

- a. Service of compliance orders, administrative citations, administrative hearing decisions, lien notices, and other documents prepared under this chapter shall be as follows:
 - 1. For service on the owner of real property that is the subject of a Code violation, the document shall be (a) personally served on the property owner by hand-delivery or mailed to the property owner by prepaid, first class U.S. mail addressed to the owner's address as shown on the District utility billing records, and (b) posted in a conspicuous location on the subject real property.
 - 2. For service on other persons, the document shall be either served personally by hand-delivery or sent by prepaid, first class U.S. mail addressed to the person's last known residence address.
- b. Failure to receive any notice or other document specified in this chapter shall not affect the validity of proceedings conducted under this chapter.

SECTION 2.00 - Administrative Citations and Fines

2.01 Preliminary Notice Procedure for Continuing Violation

a. A Continuing Code Violation shall be subject to the additional procedures set forth in this section. Whenever an Enforcement Officer determines that a Continuing Code Violation is occurring or exists, he or she may issue and serve a written compliance order on any person responsible for the violation. In situations where the violation involves real property, a copy of the compliance order also shall be served on the owner of the subject real property, if the owner is different from the person who committed the violation or who is otherwise responsible for the violation.

b. The compliance order shall state that the person responsible for the Continuing Code Violation has 30 days from the date of the compliance order, or such additional time the Enforcement Officer determines is reasonably necessary, to correct or otherwise remedy the violation. A compliance order also shall contain the following information:

1. The date(s) and location of the violation;
2. The name of the person who violated the Code or who is otherwise responsible for the Code violation;
3. The address or a definite description of the location where the violation occurred;
4. The section(s) of the Code violated and a description of the violation;
5. The action(s) required to correct or remedy the violation;
6. The deadline to correct the violation, which also shall be the date after which an administrative citation may be issued and administrative penalties begin to accrue if compliance with the order has not been achieved;
7. The amount of the applicable administrative citation fine in the event the violation is not timely corrected and a citation is issued; and
8. The name and signature of the citing Enforcement Officer.

c. If the Enforcement Officer determines that the Continuing Code Violation has been corrected within the time specified in the compliance order, no further action shall be taken under this chapter with regard to that violation. If full compliance is not achieved within the period specified in the compliance order, the Enforcement Officer may issue an administrative citation pursuant to section 2.02. No citation shall be issued by the District for a Continuing Code Violation subject to this section until after there is continued non-compliance beyond the deadline stated in a compliance order issued under this section.

2.02 Citation Issuance

a. When an Enforcement Officer determines that a violation of this Code has occurred, or that a Continuing Code Violation continues after the deadline set forth in a compliance order issued pursuant to section 2.01, the Enforcement Officer may issue and serve an administrative citation on any person who committed the violation or who is otherwise responsible for the violation. In situations where the violation involves real property, a copy of the administrative citation also shall be served on the owner of the subject real property, if the owner is different from the person who committed the violation or who is otherwise responsible for the violation.

b. Each administrative citation shall contain the following information:

1. The date(s) of the violation;
2. The name of the person who violated the Code or who is otherwise responsible for the Code violation;
3. The address or a definite description of the location where the violation occurred;
4. The section(s) of the Code violated and a description of the violation;

5. The amount of the applicable administrative citation fine for the Code violation;
 6. A statement of the increased fines for additional citations issued for the same violation within the following year;
 7. A summary of the fine-payment process, including a statement of the time within which and the place at which the fine shall be paid, and the administrative citation hearing process; and
 8. The name and signature of the citing Enforcement Officer.
- c. Whenever the Cited Person is a person under the age of 18, the Enforcement Officer shall provide copies of all notices and orders specified in this chapter to the parent(s) or legal guardian(s) of the Cited Person, if it is known and can be reasonably determined. Any fine levied pursuant to this chapter may be levied against the juvenile and the parent(s) or legal guardian(s) of the juvenile, and the juvenile and parent(s) or legal guardian(s) shall be jointly and severally liable for the fine and related costs. The parent(s) or legal guardian(s) shall have the right to a hearing and judicial review as set forth in this chapter.

2.03 Amount of Fines

- a. The following is the schedule of fines for a violation of the Code:
1. \$100 for a first violation.
 2. \$200 for a second violation by the Cited Person of the same Code provision within one year of the first violation.
 3. \$500 for each additional violation by the Cited Person of the same Code provision within one year of the first violation.
- b. The District Board of Directors may amend the schedule of fines for Code violations by the adoption of a resolution approving a revised schedule. The fine amounts shall not exceed those authorized by Government Code section 53069.4 and other applicable law.
- c. For purposes of determining the number of violations and amount of fines imposed for administrative citations issued under this chapter, a separate violation occurs on each and every day during which a violation of any provision of this Code is committed, permitted, or allowed to continue.

2.04 Payment of Fines

Upon receipt of an administrative citation, the Cited Person must pay the amount of the fine at the District Secretary's office at 15160 Jackson Road, P.O. Box 1050, Rancho Murieta, CA 95683. Fine payment is due at the following times:

- a. If a request for hearing under section 3.01 is not timely filed in relation to the administrative citation, then the fine shall be due and payable within 30 days after service of the administrative citation.
- b. If a request for hearing under section 3.01 is timely filed, the administrative citation hearing officer upholds the administrative citation, and an appeal under section 3.05 is not timely filed in superior court, then the fine shall be due and payable within 20 days after the date of the hearing officer decision. If the hearing officer modifies the fine amount in the decision, the fine due shall be the modified fine amount as set forth in the hearing officer decision. If a request for hearing under section 3.01 is timely filed and the Cited Person later withdraws the hearing request, then the fine shall be due and payable within 20 days after the date of the withdrawal.

c. If a request for hearing under section 3.01 is timely filed, the administrative citation hearing officer upholds the administrative citation, an appeal under section 3.05 is timely filed in superior court, and the court affirms the hearing officer decision, then the fine shall be due and payable within 20 days after the date of the final court decision or order. If the court modifies the fine amount in its decision or order, the fine due shall be the modified fine amount as set forth in the court decision or order.

2.05 Late Payment Charges and Interest

Any Cited Person who fails to pay a fine imposed by this chapter on or before the date that payment is due also shall be liable for the payment to the District of a late payment charge and interest. The late payment charge shall be ten percent of the fine amount and delinquent fines shall accrue interest at the rate of one percent of the fine (exclusive of penalties) per month from the due date.

2.06 Collection of Fines, Late Charges, Interest, and Costs

a. The District may collect any past due administrative citation fines and applicable late payment charges and interest by use of all available legal means. The District also may recover its direct costs incurred in securing payment of these amounts, which costs shall include, but are not limited to, administrative costs, attorney fees, and litigation expenses.

b. The District may seek to collect delinquent fines, late payment charges, interest, and costs through one or more of the following methods:

1. For any Code violation, as a personal obligation of the Cited Person and the pursuit of legally available collection remedies;

2. For a Code violation pertaining to real property, as a lien upon the subject real property imposed pursuant to subsection (c);

3. For a Code violation pertaining to real property or when the Cited Person is a District utility service billing customer, by collection through the District utility bill as provided in subsection (d); or

4. For a Code violation pertaining to real property, the District may refuse to issue a District permit or other approval pertaining to the subject property.

c. For a Code violation pertaining to real property, the District may record a lien against the subject real property to secure the payment of administrative citation fines, late payment charges, interest, and costs pursuant to this subsection. A lien created by the District pursuant to this subsection shall remain in effect until all fines, late payment charges, interest, and costs are paid in full.

1. Prior to recording any lien, the District Secretary shall prepare and file with the Board of Directors a report stating the amounts due and owing. The District Secretary shall fix a time, date, and place for the Board to hear and consider the report and any protests or objections to it.

2. At least 10 days before the time set for the hearing, the District Secretary shall give written notice of the hearing to the owner of the subject real property. The owner shall be determined based on the last equalized County assessment roll or the supplemental roll, whichever is more current. The notice shall be served in the same manner as a summons in a civil action in accordance with Code of Civil Procedure part 2, title 5, chapter 4, article 3 (commencing with section 415.10). If the owner of record, after diligent search cannot be found, the notice may

be served by posting a copy of the notice in a conspicuous place upon the property for a period of 10 days and publication of the notice in a newspaper of general circulation published in the County pursuant to Government Code section 6062.

3. Any person whose real property is subject to a lien pursuant to this section may file a written protest with the District Secretary or may protest orally at the Board hearing on the matter. Each written protest or objection must contain a description of the subject real property and the grounds of the protest or objection.

4. The Board, after the hearing, shall adopt a resolution confirming or modifying the amount of the lien or deciding not to impose the lien. The lien, if imposed by the Board, may carry such late payment charges, interest, and costs as authorized by this chapter and set forth in the resolution.

5. Within 15 days following the adoption of a resolution by the Board imposing a lien, the District Secretary shall record a notice of lien in the County Recorder's office as a lien against the subject real property. The lien shall have no force and effect until the notice of lien is recorded with the County Recorder. Once recorded, the lien shall have the force, effect and priority of a judgment lien governed by Code of Civil Procedure section 697.340 and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220. Once a lien is recorded pursuant to this subsection, interest shall accrue on the principal amount remaining unsatisfied pursuant to law. A lien may be foreclosed by an action brought by the District in the same manner as provided for a judgment lien.

6. Once the District receives full payment for the outstanding fines, late payment charges, interest, costs, and other charges set forth in the lien resolution, the District Secretary shall record a notice of satisfaction of lien with the County Recorder's office. Such notice of satisfaction shall discharge the District's lien.

d. For a Code violation pertaining to real property or when the Cited Person is a District utility service billing customer, the District may collect the administrative citation fines, late payment charges, interest, and costs together with the District monthly utility service charges billed to the subject real property by adding the total amount of the fines, late payment charges, interest, and costs to the bill. If this amount is added to the bill, then collection of the unpaid fines, late payment charges, interest, and costs shall be subject to the same remedies and penalties for non-payment of District water service charges, which includes the authority to terminate District water service to the subject real property. District Code chapter 14, sections 9.00 (Collection of Potable or Untreated Water Rates and Enforcement Provisions) and 13.00 (Enforcement, Disconnection and Restoration of Service) shall apply to the unpaid fines, late payment charges, interest, and costs collected through the District service charge billing to the property.

SECTION 3.00 - Administrative Hearings

3.01 Request for Administrative Hearing

Any Cited Person may contest whether there was a violation of the Code or whether the Cited Person was the responsible party by filing a written request for hearing with the District Secretary's office within 20 days from the date of the administrative citation. The written request shall reference the particular citation and briefly state the grounds to contest the citation.

3.02 Hearing Officer

- a. Administrative review of administrative citations shall be conducted by an impartial hearing officer. An administrative citation hearing officer shall be appointed by the District President and shall serve at the pleasure of the President.
- b. The Board of Directors by resolution may provide for compensation of the administrative citation hearing officer; provided, however, that the employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the number of administrative citation fines upheld by the officer.

3.03 Administrative Hearing Procedure

- a. The administrative hearing before the hearing officer shall be conducted as soon as practicable. At least 10 days prior to the hearing, the District Secretary shall notify the Cited Person of the time and place set for the hearing and provide the Cited Person with copies of the citation, report(s), and any other documents relied on by the Enforcement Officer in issuing the citation.
- b. At the administrative hearing, the Cited Person shall be given the opportunity to testify and present oral and documentary evidence concerning the administrative citation and the related Code violation. The hearing officer shall only consider evidence that is relevant to whether the violation occurred and whether the Cited Person has caused or maintained the violation on the date(s) specified in the administrative citation. The hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is of a type upon which reasonable persons are accustomed to rely on in the conduct of serious affairs. The hearing officer may exclude irrelevant or unduly repetitious evidence.
- c. The failure of the Cited Person to appear at the hearing shall constitute a failure to exhaust administrative remedies.
- d. The administrative citation and any report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.
- e. The hearing officer may continue the hearing and request additional information from the citing Enforcement Officer or the Cited Person prior to issuing a written decision.

3.04 Hearing Officer Decision

- a. After considering the testimony and evidence submitted at the administrative hearing, the hearing officer, within 15 days of the conclusion of the hearing, shall issue a written decision upholding, cancelling, or modifying the administrative citation, including a brief explanation of the reason or reasons for the decision.
- b. The hearing officer's decision shall be served on the Cited Person pursuant to the manner set forth in section 1.03. In cases where the Code violation pertains to real property, a copy of the decision also shall be served on the owner of the subject real property, if the owner is different from the Cited Person.
- c. If the hearing officer upholds the administrative citation, then the Cited Person shall pay the fine amount prior to the due date set forth in section 2.04.

3.05 Judicial Review

Any Cited Person aggrieved by a hearing officer decision may seek judicial review of the decision by filing a notice of appeal with the Sacramento County Superior Court within 20 days after service of the decision in accordance with Government Code section 53069.4. If no notice of appeal is timely filed, the hearing officer decision shall be deemed confirmed.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect 30 days after its final passage.

SECTION 4. SEVERABILITY. If any section or provision of this ordinance or the application of it to any person, transaction or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this ordinance that can be given effect without the invalid or unenforceable provision, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. PUBLICATION. The District Secretary is directed to publish this ordinance once in a newspaper of general circulation published in the District within 15 days after the adoption of the ordinance.

INTRODUCED by the Board of Directors on the 19 day of October 2022.

PASSED AND ADOPTED by the Board of Directors of the Rancho Murieta Community Services District at a regular meeting on the 16 day of November 2022 by the following roll call vote:

AYES: Maybee, Butler, Pohl


NOES: None

ABSENT: Jenco

ABSTAIN: None



Tim Maybee
President, Board of Directors

Attest:


Amelia Wilder, District Secretary