

ORDINANCE NO. 2016-01
AN ORDINANCE OF THE ROLLING HILLS
COMMUNITY SERVICES DISTRICT
REGARDING ADMINISTRATIVE CITATIONS

RECITALS

WHEREAS, the Board of Directors ("Board") of the Rolling Hills Community Services District ("District") has the authority to make violations of its ordinances subject to an administrative fine or penalty under Government Code Section 53069.4; and

WHEREAS, setting procedures for the imposition of administrative citations will allow the District to easily and quickly resolve violations of District regulations administratively rather than pursuing criminal remedies; and

WHEREAS, the District wishes to provide for a system of administrative citations, which would be in addition to all other legal remedies, criminal or civil, that the District may pursue to address a violation of its regulations.

NOW, THEREFORE, the Board of Directors of the Rolling Hills Community Services District ordains as follows:

Section 1. APPLICABILITY

- A. This Ordinance provides for the issuance of administrative citations that are in addition to all other legal remedies, criminal or civil, that may be pursued by the District to address any violation of the District's ordinances.
- B. Use of this Ordinance shall be at the sole discretion of the District.

Section 2. DEFINITIONS

For purposes of this Ordinance:

- A. "Enforcement officer" shall mean the General Manager or any District employee or agent of the District with the authority to enforce any provision of the District's ordinances.
- B. "Hearing body" shall mean the Board of Directors of the District.
- C. "Person Responsible" means a person that the enforcement officer determines is responsible for causing or maintaining a violation of the District's ordinances. The term "person responsible" includes, but is not limited to, a property owner, tenant, person with a legal interest in real property, or person in possession of real property.

Section 3. ADMINISTRATIVE CITATION

- A. Whenever an enforcement officer charged with the enforcement of any provision of the District's ordinances determines that a violation of that provision has

occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible.

- B. Prior to issuing an administrative citation, the enforcement officer may issue a written warning to the person responsible.
- C. If a citation is to be issued, each administrative citation shall be issued on a form containing the following information:
 - 1. The date of the violation or, if the date of the violation is unknown, the date the violation is identified;
 - 2. The address or a definite description of the location where the violation occurred;
 - 3. The ordinance violated and a description of the violation;
 - 4. The amount of the administrative fine for the violation;
 - 5. If applicable, the action necessary to correct the violation;
 - 6. If applicable, a requirement that the person responsible immediately correct the violation, and an explanation of the consequences of failure to correct the violation;
 - 7. If applicable, a reasonable correction period, prior to imposition of the fine;
 - 8. 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;
 - 9. A description of the administrative citation review process, including requirements for requesting a hearing;
 - 10. The name and signature of the citing enforcement officer.

Section 4. AMOUNT OF FINES

The schedule of fines for administrative citations issued for violations of the District's ordinances is as follows, unless a higher amount is allowed by state law:

- A. An administrative fine not exceeding \$100.00 for a first violation;
- B. An administrative fine not exceeding \$200.00 for a second violation of the same ordinance within 12 months;
- C. An administrative fine not exceeding \$500.00 for each additional violation of the same ordinance within 12 months.

Section 5. PAYMENT OF FINES

- A. The fine shall be paid to the District within thirty (30) days from the date of the administrative citation.
- B. Any person who fails to pay the District any administrative fine imposed pursuant to this Ordinance on or before the date that fine is due shall be liable for payment of any applicable late payment charges set forth in a resolution or fee schedule adopted by the District.
- C. Any administrative fine paid pursuant to subsection A of this section shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
- D. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.

Section 6. HEARING REQUEST

- A. Any recipient of an administrative citation may contest that there was a violation of a District regulation, or that he or she is the responsible party, or that a penalty amount is warranted, or any other terms of the citation, by filing a written notice of appeal with the General Manager or Board secretary within thirty (30) days of the date of the issuance of the administrative citation, together with an advance deposit of the fine. Failure to timely file a written notice of appeal or provide the advance deposit of the fine shall constitute a failure to exhaust administrative remedies.
- B. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.
- C. If the enforcement officer submits an additional written report concerning the administrative citation to the Board for consideration at the hearing, then a copy of this report shall also be served on the person requesting the hearing at least three (3) days prior to the date of the hearing.

Section 7. HEARING BODY

The District Board shall serve as the hearing body for the administrative citation hearing. The determination of the District Board shall be final.

Section 8. HEARING PROCEDURE

- A. A hearing before the hearing body shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed. The hearing may be continued from time to time as deemed necessary by the hearing body.
- B. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

- C. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.
- D. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. The burden of proof shall then be on the person contesting the administrative citation to refute such evidence.
- E. Evidence offered during a hearing must be credible and relevant in the estimation of the hearing body, but formal rules governing the presentation and consideration of evidence shall not apply.

Section 9. HEARING BODY’S DECISION

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing body shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing body shall be final.
- B. If the hearing body determines that the administrative citation should be upheld, then the fine amount on deposit with the District shall be retained by the District.
- C. If the hearing body determines that the administrative citation should be canceled, then the District shall promptly refund the amount of the deposited fine.
- D. The recipient of the administrative citation shall be served with a copy of the hearing body’s written decision.

Section 10. RECOVERY OF ADMINISTRATIVE CITATION FINES AND COSTS

The District may collect any past due administrative citation fine or late payment charge by use of all available legal means. The District also may recover its collection costs, including, but not limited to, administrative costs and attorney fees. Such collection costs shall be in addition to any penalties, interest, and state charges imposed pursuant to an ordinance or resolution of the District Board.

Section 11. JUDICIAL REVIEW

Any person aggrieved by an administrative decision of the District Board may obtain review of the administrative decision by filing a petition for review with the superior court in El Dorado County in accordance with the time limitations and provisions set forth in California Government Code section 53069.4.

Section 12. NOTICES

- A. The administrative citation and all notices required to be given by this Ordinance shall be served on the person responsible by personal delivery thereof to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records

or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit to the postal service.

- B. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

Section 13. REMEDIES CUMULATIVE

The remedies provided for in this Ordinance shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the District.

Section 14. SEPARATE VIOLATIONS

Each day or portion thereof during which a violation of an ordinance exists is a separate violation subject to an administrative citation.

Section 15. SEVERABILITY

The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

Section 16. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days after its final passage and adoption, provided it is published within fifteen (15) days after its adoption in the Mountain Democrat newspaper in accordance with Government Code section 25124.

This Ordinance was introduced and the title hereof read at the regular meeting of the Rolling Hills Community Services District Board of Directors on July 19, 2016, and further reading was waived.

On a motion by Director Tim Halverson, seconded by Director Mark Magee, this Ordinance was passed and adopted by the Board of Directors of the Rolling Hills Community Services District on this 16th day of August, 2016, by the following vote:

AYES: 3	DIRECTORS: Sites, Halverson, Magee
NOES: 0	DIRECTORS: None
ABSTAIN: 0	DIRECTORS: None
ABSENT: 2	DIRECTORS: Fawkes, Kennedy

/s/ Matt Sites
PRESIDENT OF THE BOARD

Attest: /s/ Linda Stone
Board Secretary