

STALLION SPRINGS COMMUNITY SERVICES DISTRICT

Ordinance No. 160

Re: AN ORDINANCE OF THE STALLION SPRINGS COMMUNITY SERVICES DISTRICT ESTABLISHING PROCEDURES FOR PROCESSING CODE ENFORCEMENT ADMINISTRATIVE CITATIONS

1-3-1: **LEGISLATIVE FINDINGS AND PURPOSE:**

- A. The Stallion Springs Community Services District Board of Directors hereby finds there is a need for an alternative method of enforcement for violations of the Stallion Springs District Code.
- B. The Board of Directors further finds that an appropriate method of enforcement for such violations is through the imposition of an administrative fine, as authorized by Cal. Gov't Code § 53069.4.
- C. The procedures established in this chapter shall be in addition to criminal, civil or any other legal remedies established by law, which may be pursued to address violations of the District's code.
- D. The Stallion Springs Community Services District Board of Directors hereby finds and determines that enforcement of the code is a matter of local concern and serves important public purpose. Consistent with its powers as a District, the Stallion Springs Community Services District adopts this chapter to achieve the following goals:
 - 1. To protect the public health, safety, and welfare of the citizens of the Stallion Springs Community Services District;
 - 2. To promote compliance through public awareness;
 - 3. To gain timely compliance with the in an efficient manner;
 - 4. To provide for an administrative process to appeal the imposition of an administrative fine;
 - 5. To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of the District's code;
 - 6. To minimize the expense and delay where the sole remedy is to pursue responsible parties in the civil or criminal justice system.
- E. The imposition of an administrative fine shall be at the District's sole discretion, and is one option the District has to address violations of the District's Ordinances.

1-3-2: **ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF CODE:**

- A. This chapter provides for an administrative remedy for any violation of this code, including continuing violations related to building, plumbing, electrical, or other similar structural or zoning issues, which remedy may be exercised in place of, or in addition to, any other remedy allowed by law, whether administrative, criminal, civil, or equitable.
- B. By adopting this chapter, the District does not intend to limit its discretion to utilize any other remedy, civil or criminal, for such violations that the District may select in a particular case.

- C. The General Manager is authorized to promulgate rules and regulations governing the administrative citation and hearing process, including delegation of the General Manager's duties under this chapter.
- D. The General Manager is authorized to contract with a private entity to provide services related to the processing of citations, collection of fines, and conduct of hearings under this chapter.

1-3-3: **DEFINITIONS:**

For the purposes of this chapter, the following definitions apply:

ENFORCEMENT OFFICIAL. Any District employee or agent of the District with the authority to enforce any provision of this code.

PERSON. Any natural person or legal entity, and the majority stockholders, corporate officers, trustees, managing members, and general partners of a legal entity.

RESPONSIBLE PARTY. Any of the following:

(1) Any person or entity that causes, maintains, suffers, permits, or allows a violation of the code, by his or her action or failure to act.

(2) Any person or entity that owns, possesses, or controls any parcel of real property in the District upon which a violation of the code occurs or exists.

(3) Any trustee of any trust that holds legal title to any parcel of real property in the District upon which a violation of the code is maintained.

(4) Any person or entity that owns, possesses, manages, or controls any business within the District that is responsible for causing or maintaining a violation of the code.

SUBJECT PROPERTY. The parcel of real property upon which the violations cited in an administrative citation occurred.

1-3-4: **ADMINISTRATIVE CITATION:**

- A. Whenever an enforcement official determines that a violation of the code has occurred, the enforcement official has the authority to issue an administrative citation to any responsible party for that violation.
- B. Each administrative citation must contain the following information:
 - 1. The date and approximate time of the violation;
 - 2. The address or a definite description of the location where the violation was observed;
 - 3. The code section violated and a description of the violation;
 - 4. The amount of the fine for the code 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. A description of the citation review process, including the time within which the administrative citation may be contested and the place to obtain a request for hearing form to contest the administrative citation;
 - 7. The name and signature of the citing enforcement official;
 - 8. The name of the responsible party and known mailing address;

9. An identification of whether the cited violations are of a continuing nature;
10. An order prohibiting the continuation or repeated occurrence of the code violation, the actions needed to correct the violation, the timeframe within which to correct the violation, and an explanation of the consequences for failing to correct the violation.

1-3-5: AMOUNT OF FINES:

- A. The fine imposed under this chapter for violations of this code shall be in the amount set forth in the Administrative Citation Schedule of Fines established by resolution of the Board of Directors. For any violation of this code for which no specific fine is established by this code or by the Board of Directors, the maximum fine for any violation that is punishable as an infraction shall be \$100 for the first offense, \$200 for the second offense within 12 months, and \$500 for each subsequent offense within 12 months. The maximum fine for any violation that is punishable as a misdemeanor shall be \$1,000 for each offense.
- B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within 12 months from the date of an administrative citation. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date.
- C. Failure of any person to pay the administrative fines assessed by an administrative citation may result in the matter being referred for collection, including, but not limited to, the filing of a small claims court action.
- D. Administrative fines, fees, and charges assessed in conjunction with an administrative citation and/or compliance order are a debt owed to the District. The amounts of fines, fees, and charges shall be recoverable from the responsible parties in addition to any other costs, expenses, and fees, attributable to the code enforcement and nuisance abatement action regarding the violations as established by this code.

1-3-6: PAYMENT OF THE FINE:

- A. The administrative citation fine must be paid to the District within 14 days from the date of service of the administrative citation, unless a hearing is properly requested.
- B. Any administrative citation fine paid pursuant to Section 1-3-6(A) shall be refunded in accordance with Section 1-3-11(B) if it is determined 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.
- C. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of a code violation that is subject to an administrative citation.

1-3-7: SERVICE OF THE CITATION:

- A. *Procedures.* The following procedures may be used in serving administrative citations:
 1. *Personal Service.*

- a. The enforcement official must attempt to locate and personally serve the responsible party, and obtain the signature of the responsible party on the administrative citation.
 - b. If the responsible party served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or subsequent proceedings.
2. *Mail.*
- a. If the enforcement officer is unable to locate the responsible party for personal service, the administrative citation must be mailed to the responsible party by certified mail, postage prepaid, with a requested return receipt.
 - b. Simultaneously, the administrative citation may be sent by first class mail.
 - c. If a responsible party is an entity registered with the Secretary of State, then the administrative citation may be mailed by certified mail to that responsible party's agent for service of process at the address registered with the Secretary of State, or as otherwise permitted by the Corporations Code.
 - d. If the administrative citation is sent by certified mail and returned unsigned, then service shall be deemed effective upon deposit of the administrative citation in the U.S. mail.
3. *Posting on the Subject Property.*
- a. If the enforcement official is unable to serve the administrative citation under either Subsection 1 or 2 above, a copy of the administrative citation may be posted on any real property within the District in which the District knows the responsible party has a legal interest.
 - b. Service under this section shall be deemed effective on the date the notice is posted.
- B. *Completion of Service.* Failure of the responsible party to receive any notice does not affect the validity of the citation or proceedings conducted under this chapter.

1-3-8: **SATISFACTION OF THE ADMINISTRATIVE CITATION:**

- A. *Alternatives.* Upon receipt of an administrative citation, the responsible party must do one of the following:
- 1. *Pay the Fine.*
 - a. Pay the fine to the District within 14 days from the date of service of the administrative citation.
 - b. Payment of a fine does not excuse or discharge any continuation or repeated occurrence of a code violation that is subject to an administrative citation, nor does it bar further enforcement action by the District.
 - c. Payment of the fine waives the responsible party's right to the administrative citation hearing and appeal process.
 - 2. *Remedy the Violation.* If the violation is of a continuing nature, pertains to building, plumbing, electrical, or other similar structural or zoning issues, is deemed by the enforcement official not to create an immediate danger to health and safety, and is corrected within the time given to remedy the violation, then no fine shall be imposed; or

3. *Request a Hearing.* A request for a hearing must be filed in accordance with the time limits and other provisions of Section 1-3-9.
- B. *Failure to Select and Satisfy An Alternative.*
1. In the event the responsible party fails or refuses to select and satisfy any of the alternatives set forth in this section, then the fine is immediately due and owing to the District, and may be collected in any manner allowed by law for collection of a debt.
 2. Commencement of an action to collect the delinquent fine does not preclude issuance of additional administrative citations to the responsible party if the violations persist.

1-3-9: **HEARING REQUEST:**

- A. Any recipient of an administration citation may contest that there was a violation or that he or she is the responsible party by completing a request for hearing form and returning it to the District within 14 days from the date of service of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 1-3-10.
- B. A request for hearing form may be obtained at no charge from the department specified on the administrative citation.
- C. A failure to timely and properly request a hearing is deemed a waiver of the right to appeal the citation and to seek judicial review. The administrative citation, along with any imposed fines, fees, and charges, shall be deemed final.

1-3-10: **ADVANCE DEPOSIT HARDSHIP WAIVER:**

- A. Any responsible party who intends to request a hearing to contest an administrative citation and who is financially unable to deposit the administrative fines required may file a request for an advance deposit hardship waiver.
- B. The request shall be filed with the General Manager on an advance deposit hardship waiver application form, available from the General Manager, at the time the responsible party requests a hearing.
- C. The responsible party's failure to submit a completed form, with all supporting documents, within 14 days after service of the administrative citation, constitutes a waiver of the right to receive a hardship waiver.
- D. The General Manager may issue an advance deposit hardship waiver only if the person requesting the waiver submits a sworn affidavit, together with any supporting documents, demonstrating to the satisfaction of the General Manager of the person's financial inability to deposit with the District the full amount of the fine in advance of the hearing. The General Manager's decision whether to issue a hardship waiver is final.
- E. If the General Manager determines to not issue an advance deposit hardship waiver, the person must remit the deposit to the District within ten days of the date of that decision.

1-3-11: **DISMISSAL OF CITATION:**

- A. The General Manager or District Attorney may dismiss an administrative citation at any time if it is determined to have been issued in error, or if such dismissal is determined to be in the furtherance of justice, as determined at the sole discretion of the General Manager or District's Attorney. In such event, any deposit made must be refunded.
- B. 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, then administrative citation fine which has been deposited must be refunded.

1-3-12: **HEARING PROCEDURE:**

- A. The General Manager must establish procedures for the selection of a hearing officer for the administrative citation hearing. Administrative hearing officers must be selected in a manner that avoids the potential for pecuniary or other bias.
- B. No hearing to contest an administrative citation before a hearing officer must be held unless and until a timely and complete request for hearing form has been submitted, and the fine has been deposited in advance, or a hardship waiver has been timely requested and approved.
- C. After receipt of the request for hearing form, and fine deposit or hardship waiver, a hearing before the hearing officer must be set for a date that is not less than 15 and not more than 60 days from the date that the request for hearing form is filed in accordance with the provisions of this section.
 - 1. The person requesting the hearing shall be notified of the time and place set for the hearing by first class mail at least ten days prior to the date of the hearing.
 - 2. The responsible party may request one continuance of the hearing, but in no event may the hearing commence later than 90 days after receipt of the request for hearing form from the responsible party .
 - 3. Further continuances or any continuance that will extend the commencement of the hearing beyond 90 days after receipt of the request for hearing may be granted at the discretion of the hearing officer and only for good cause.
- D. If the person contesting the administrative citation fails to attend the scheduled hearing, the hearing will proceed, the person is deemed to have waived the right to an administrative hearing to contest the administrative citation, constitutes a forfeiture of the fine, and bars judicial review of the hear officer's decision, based on a failure to exhaust administrative remedies.
- E. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. The hearing officer may consider only evidence that is relevant to whether the violation occurred, and whether the responsible party has caused or maintained a violation of the code on the date(s) specified in the administrative citation.
- F. Each party may have the opportunity to present evidence in support of that party's case, and to cross-examine witnesses. At an administrative hearing, the District bears the burden of proof to establish a violation of the code, and responsibility therefor, by a preponderance of the evidence.

- G. The administrative citation and any additional documents submitted by the issuing enforcement official constitutes prima facie evidence of the respective facts contained in those documents.
- H. Upon request, the recipient of an administrative citation must be provided with copies of the citations, reports, and other documents submitted or relied upon by the issuing enforcement official when issuing the administrative citation.
- I. The enforcement official may submit a written report concerning the administrative citation to the hearing officer for consideration at the hearing. If the enforcement official submits such a report, then a copy of such documentation must be served by mail on the recipient of the administrative citation.
- J. Before issuing a written decision, the hearing officer may continue the hearing and request additional information from the issuing enforcement official or the recipient of the administrative citation.

1-3-13: **HEARING OFFICER'S DECISION:**

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer may immediately issue a verbal decision.
- B. A written decision must be issued within ten days of the hearing.
 - 1. The decision must be served by first class mail and shall be deemed to be served on the date the decision is deposited with the United States Postal Service.
 - 2. The written decision must set forth the reasons for the decision, along with notice of the right to appeal pursuant to this chapter.
 - 3. The failure to receive a properly addressed decision does not invalidate the administrative citation, compliance order or the administrative hearing officer's decision.
 - 4. The written decision is final.
- C. If the hearing officer determines the administrative citation should be upheld, then the fine amount on deposit with the District shall be retained by the District.
- D. If the hearing officer determines that the administrative citation should be upheld, and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer must set forth a payment schedule for the fine in the written decision.
- E. If the hearing officer determines the administrative citation should be canceled, and if the fine was deposited with the District, then the District must promptly refund the amount of the deposited fine.
- F. If the hearing officer determines that an administrative citation should be dismissed, the District retains the authority to issue additional administrative citations for additional violations, or to take any other enforcement action authorized by law.

1-3-14: **DELINQUENT PAYMENTS:**

- A. Any person who fails to pay to the District any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due is liable for the payment of any

applicable late payment charges, including penalties and interest. Late payment charges shall be in the amount established by resolution of the Board of Directors.

1-3-15: RECOVERY OF ADMINISTRATIVE CITATION FINES, FEES, CHARGES, EXPENSES AND COSTS:

The District may collect any past due administrative citation fines, administrative fees, or late payment charges by use of all available legal means, including, but not limited to, personal collection from the responsible parties and special assessment against the parcel of real property containing the violations cited. The District also may recover all costs, expenses, and fees, including attorneys' fees, associated with the assessment, enforcement, processing, and collection of the fines associated with the administrative citation in accordance with the provisions of this code.

1-3-16: RIGHT TO JUDICIAL REVIEW:

Within 20 days after service of the decision of the hearing officer upon the responsible party, the responsible party may seek review of the administrative decision by filing an appeal with the Superior Court of the State of California, in the County of Kern, in accordance with Cal. Gov't Code § 53069.4. The responsible party must serve upon the Secretary for the Board of Directors, either in person or by first-class mail, a copy of the notice of appeal. If the responsible party fails to timely file a notice of appeal, the hearing officer's decision is deemed confirmed.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Stallion Springs Community Services District this 17th day of April 2018, on the following roll call vote:

AYES: Director Rowan, Director Stewart, Director Wellman, Director Young, Chair Gordon

NOES: None

ABSENT: None

ABSTAIN: None



**Ed Gordon, President
Board of Directors**

Attest:



**Vanessa Stevens, Secretary
Board of Directors**