

South Placer Municipal Utility District Code

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CHAPTER 1 GENERAL PROVISIONS

CHAPTER 1.00 GENERAL

- A. This chapter in whole or in part is based on excerpts from Ordinances 09-01, 09-02, 15-01, 15-03, 17-01 and 17-03 adopted by the Board of Directors, and shall govern the use of public and private sewers and shall establish the rules and regulations for service and services rendered by the District.

CHAPTER 1.01 DEFINITIONS

- A. Appendix A of this Code, titled "Definitions" shall give meaning to the words and phrases as used in this Code, or any Chapter of this Code.

CHAPTER 1.05 CODE ADOPTION

1.05.010 Code Adopted - Effective Day

- A. This Code, as compiled from the ordinances of the South Placer Municipal Utility District, is the official code of the District. This Code shall take effect on the first day of the month following adoption. This Code shall be applicable and controlling with respect to all subjects included in this Code in lieu of all ordinances that are superseded and replaced by this Code. Three (3) copies of this Code shall be permanently retained on file with the Secretary of the Board of Directors for use and examination by the public.

1.05.015 Purpose of Codification

- A. The purpose of this Code is to compile in one document and place, the ordinances of the South Placer Municipal Utility District. Such compilation will make the laws of the District more accessible, readable and understandable to those persons governed by such laws, and by those persons administering such laws.

1.05.020 Title - Citation - Reference

- A. This Code shall be known as the "South Placer Municipal Utility District Sewer Code." It shall be sufficient to refer to this Code as the "South Placer Municipal Utility District Code" in any prosecution for violation of any provision of this Code in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting, or repealing all/or any part of this Code as an addition to, amendment to, correction of, or repeal of the "South

Placer Municipal Utility District Code." References to this Code may be to the titles, chapters, sections, and subsections of the "South Placer Municipal Utility District Code" and such reference shall apply to that numbered title, chapter, section, or subsection as it appears in this Code.

1.05.030 Repeal

- A. This Code consists of all ordinances of the South Placer Municipal Utility District and the following ordinances are hereby repealed as of the effective date of this Code: Ordinances 09-01, 09-02, 15-01, 15-03, 17-01 and 17-04.

1.05.040 Continuity of Provisions

- A. The provisions of this Code, insofar as they are substantially the same as previously existing ordinance provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

1.05.050 Actions and Proceedings Continued

- A. No actions or proceedings commenced before this Code takes effect, and no right accrued, is affected by the provisions of this Code, but all procedures thereafter taken shall conform to the provisions of this Code so far as possible.

1.05.060 Licenses and Permits Continued

- A. Any rights given by license, permit, or certificate under any ordinance repealed by this Code are not affected by the enactment of this Code or by such repeal; but such rights shall hereafter be exercised according to this Code.

1.05.070 Reference

- A. Whenever reference is made to any portion of this Code or of any other laws of the State or District, the reference applies to all amendments and additions now or hereafter made.

1.05.080 Delegation

- A. Whenever, by this Code, a power is granted to a public officer or a duty is imposed upon a public officer, the power may be exercised, or the duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer unless expressly provided otherwise by this Code.

1.05.090 Interpretation

- A. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements and shall be liberally construed in favor of the

governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

1.05.100 Applicability of Chapter

- A. Unless the provision or the context otherwise requires, the general provisions, rules of construction, and definitions set forth in this chapter shall govern the construction of this Code.

1.05.110 Title, Chapter, and Section Headings

- A. Title, chapter, and section headings do not govern, limit, modify, or in any way affect the scope, meaning, or intent of the provisions of any title, chapter, or section.

1.05.130 Severability

- A. If any title, chapter, section, subdivision, sentence, clause, phrase, or provision of this Code, or the application thereof, to any person or circumstances, is held to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code or the application of such provisions to other persons or circumstances shall not be affected thereby.

1.05.140 Application to Government Agencies

- A. The provisions of this Code shall apply to all government agencies, their officers, employees, or agents, to the extent authorized by law.

1.05.150 Time of Day

- A. Whenever a certain hour or time of day is specified in this Code, such hour or time shall be Pacific Standard Time or Pacific Daylight Savings Time, whichever is in current use in the District.

1.05.160 Liability

- A. No provision of this Code shall be construed as imposing upon the District any liability or responsibility for personal injury or property damage resulting from any activity or condition, that arises or exists by virtue of any provision or requirement of this Code, including construction, installation, or repair of any facility, equipment or property, or from any defect therein; nor shall the District or any officer or employee thereof be held as assuming any liability or responsibility by reason of any inspection authorized herein.

CHAPTER 1.10 JUDICIAL REVIEW OF DISTRICT DECISIONS

1.10.010 State Law Applicable

- A. Pursuant to the provisions of Section 1094.6 of the Code of Civil Procedure, the provisions of said section are made applicable to the decisions of the Board of Directors of the South Placer Municipal Utility District, and to the decisions of all other commissions, boards, officers, and agents of the South Placer Municipal Utility District, except where a limitation of actions is otherwise provided by this Code.

1.10.020 Judicial Review - 90-Day Limit

- A. Judicial review of any decision subject to the provisions of this Chapter and the Code of Civil Procedure Section 1094.6 may be had only if the Petition for Judicial Review is filed within ninety (90) days after the decision becomes final; provided, that pursuant to the provisions of Section 1094.6(d) of the Code of Civil Procedure, if the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition for judicial review may be filed shall be extended to not later than the thirtieth (30th) day following the date on which the record is either personally delivered or mailed to the petitioner or their attorney of record, if they have one.

1.10.030 Record Preparation - Costs

- A. As provided in the Code of Civil Procedure Section 1094.6, any person who requests preparation of the administrative record shall be responsible for the payment of the actual costs of transcribing or otherwise preparing the record. Actual costs shall include, but not be limited to: the salary and fringe benefit rates of pay by the District or District personnel for time consumed in typing a transcript and reproducing, assembling, and compiling the transcript and exhibits; the unit cost (including pro-rated rental) of equipment utilized in reproduction; the cost of materials and supplies; and the cost to the District of having a transcript typed when testimony has been recorded by a court reporter. Each board, commission, officer, employee, or agent whose decision will be subject to the limitations established by this Chapter, may, from time to time, by resolution in the case of such boards and commissions and by written order in the case of such officers, employees, and agents, determine and promulgate unit costs of preparing the record.
- B. Before commencing preparation of a transcript or other record, the officer or employee responsible for preparation shall estimate the actual total cost. Preparation of the record shall not be commenced until the person requesting preparation of the record has deposited the full amount of the cost estimate.
- C. If the deposit exceeds the actual costs, the difference shall be refunded. If the actual cost exceeds the estimate, the difference shall be paid when the record is delivered.

- D. The limitations of action, shall not be extended pursuant to the provision of Section 1094.6(d) of the Code of Civil Procedures or Section 1.10.020 of this Code, beyond ninety (90) days after the decision becomes final unless the petitioner deposits pursuant to the provisions of Subsection B of this Section, the estimated actual total cost of preparing the transcript within ten (10) calendar days after they have been furnished with the written estimate of such cost.

1.10.040 Notice

- A. Every written decision or notice thereof to which the provisions of this Chapter and Section 1094.6 of the Code of Civil Procedure apply, shall refer to and be accompanied, by attachment, by a copy of the provisions of this Chapter.

CHAPTER 1.15 ADMINISTRATION

1.15.010 Appeals

- A. Unless otherwise expressly provided, if the applicant for any permit authorized or required by any title to this Code, the permittee, or other persons are dissatisfied with any determination made by the General Manager, or other officers or agents of the South Placer Municipal Utility District, regarding the interpretation or implementation of the provisions contained in any title to this Code, such person may appeal to the Board of Directors. Any such appeal shall be in writing, shall state the specific reasons therefore and grounds asserted for relief and shall be filed with the Secretary of the Board of Directors not later than twenty (20) calendar days after the date of the action being appealed. If an appeal is not filed within the time or in the manner prescribed above, the right to review the action against which the complaint is made shall be deemed to have been waived.

1.15.020 Appeal Fee

- A. The Board of Directors may by resolution adopt and, from time to time, amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed fee has been paid.

1.15.030 Appeal Hearings

- A. Immediately upon receipt of any Notice of Appeal filed within the said twenty (20) calendar day period, the Secretary of the Board of Directors shall mail copies thereof to each member of the Board of Directors.

- B. Not later than the next regularly scheduled meeting following thirty (30) calendar days after the date of filing an appeal within the time and in the manner prescribed by Section 1.15.010 of this Code, the Board of Directors shall either:
 - 1. Conduct a hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date, and place of the hearing shall be served upon the General Manager and the officer or agent whose determination is the subject of the appeal, the applicant or permittee, and the appellant not later than ten days preceding the date of the hearing; or
 - 2. Hear the appeal or set a time convenient to the Board for the hearing of such appeal.
- C. The aggrieved or appealing party, or their authorized representative, shall be personally present at the hearing of such appeal and failure of said aggrieved party or their authorized representative to appear at said hearing shall constitute sufficient grounds to affirm the decision of the General Manager.

1.15.040 Actions on Appeals

- A. The Board of Directors shall review the entire proceeding or proceedings relating to the act or decision being appealed, de novo, and may make any order it deems just and equitable, including the granting of any permit authorized or required by any title to this Code. Any hearing may be continued from time to time.
- B. At the conclusion of the hearing, the Board of Directors shall prepare a written decision that either grants or denies the appeal and contains findings of fact and conclusions. The written decision, including a copy thereof, shall be filed with the Secretary of the Board of Directors. The Secretary of the Board of Directors shall serve such decision on the applicant or permittee, the appellant, and the General Manager. The decision of the Board of Directors shall become final upon the date of filing and service of the written decision with respect to any appeal.

1.15.050 Notices

- A. All notices for public hearing shall be in conformance with Public Utility Code Section 14401, et seq, and Government Code Section 6060, et seq, unless otherwise specified.
- B. Except as otherwise specifically set forth, any notice authorized or required by this Code shall be deemed to have been filed, served, and effective for all purposes on the date when it is personally delivered in writing to the party to whom it is directed or deposited in the United States mail, first-class postage prepaid, and addressed to the party to whom it is directed.

- C. Except as otherwise specifically set forth, whenever a provision in this Code requires a public hearing to be conducted, notice of the time, date, place, and purpose of the hearing shall be published at least once not later than ten (10) calendar days in advance of the date of commencement of the hearing in a newspaper of general circulation which is published within the District. The same type of notice shall also be served on each permittee whose permit may be affected by the action taken at the conclusion of the hearing.

1.15.060 Changes in Construction Contracts

- A. The General Manager or their designee is hereby authorized on behalf of, and in the name of, the District to order changes, alterations, or additions of work being performed under construction contracts, and execute and authorize payment of such orders in accordance with the provisions of the Public Contract Code Section 20142. Change orders issued and executed pursuant to the authority conferred by this Section shall be in accordance with the monetary limits stated in the Public Contract Code Section 20142.

CHAPTER 1.20 VOTING BY THE BOARD OF DIRECTORS

1.20.010 Voting by the Board of Directors

- A. If action by the Board of Directors is a tie vote on any matter, whether or not the matter is before the Board on appeal, the Board may, following the tie vote and in advance of adjournment of the meeting during which the tie vote occurred, continue the matter for further consideration and determination to a time and date certain not later than thirty (30) calendar days following the date on which the tie vote occurred. If the matter is not continued for further consideration and determination in the manner specified above, such tie vote shall be deemed to constitute a denial or disapproval effective on the date the tie vote occurs of the matter (and in the case of an appeal, denial of the action requested by the application, as distinguished from denial of the appeal), and such action shall be deemed to be final and not subject to reconsideration. If during the meeting to which consideration and determination is continued pursuant to this section, another tie vote occurs, the matter shall, effective on the date of such continued meeting, be deemed denied in the manner described above and the action shall be deemed to be final in the manner prescribed above. During the meeting to which consideration and determination is continued pursuant to this section, no new or additional evidence shall be received or considered unless any public hearing required by law has been reopened and any notice thereof required by law has been given.

CHAPTER 1.25 ENFORCEMENT

1.25.005 Responsibility

- A. The General Manager is charged with enforcement of this Code and with the coordination of all District and District officials and departments in order to achieve its purpose. The General Manager may take such other steps and may apply to such court or courts as have jurisdiction to grant relief as will abate and restrain and enjoin any person from taking any action contrary to the provisions of this Code.

1.25.010 Violations

- A. Violating any provision contained in this Code is an infraction.
- B. Violating any provision of this Code following a violation notice from the District General Manager shall constitute a misdemeanor, and upon conviction, the violating person may be punished by a fine up to \$1,000 or imprisonment in the County jail for up to six (6) months, or both.
- C. Violating any provision of this Code constituting unauthorized use of District facilities is a public nuisance.
- D. Any violation of this Code may be remedied by injunction or other civil proceeding pursuant to direction by the Board of Directors.
- E. Violating any provision of this Code shall be subject to an administrative penalty as set forth in this Chapter.
- F. Each person commits a separate offense each and every day during any portion of which a violation of any provision of this Code is committed, continued, or permitted. Any violation persisting more than one (1) twenty-four (24) hour period is a continuing violation.
- G. The penalties and remedies authorized by this Chapter are cumulative and in addition to any other remedies or penalties authorized or imposed under any other provision of this Code or any other applicable law or regulation.

1.25.020 Administrative Penalty

- A. A notice of a violation and administrative penalty shall be provided according to Chapter 1.15 of this Code, except the publication requirements shall not apply. A notice of violation and administrative penalty shall be directed to the owner or occupant of the premises where the violation occurred.
- B. A party provided notice of a violation and administrative penalty may appeal the notice by filing a written appeal with the General Manager no later than twenty (20) days after the notice of violation and administrative penalty is issued. The

appeal must specify the grounds for appeal and shall provide the appellant's address and telephone number.

- C. Upon timely receipt of an appeal, the General Manager shall set the matter for a review hearing at the earliest practical date. The General Manager shall provide written notice of the hearing to the appellant no less than seven (7) days prior to the date of the hearing. At the hearing, a Hearing Officer meeting the pertinent qualifications of Government Code Sections 27720 et seq. shall hear relevant evidence presented by the appellant and District staff and may uphold, modify, or rescind the notice of violation and administrative penalty. The Hearing Officer shall provide the appellant a written determination, which shall be the final administrative determination of the matter. The Hearing Officer's determination shall advise that the time limit and manner for judicial review is governed by California Government Code 53069.4, or its successor statute.
- D. The failure of the owner or occupant of the premises where the violation occurred to file a timely notice of appeal shall constitute an irrevocable waiver of the right to appeal and a failure to exhaust the owner's and occupant's administrative remedies for the notice of violation and administrative penalty.
- E. Upon determination after an appeal that an administrative penalty shall be imposed, or upon issuance of a notice of violation and administrative penalty and expiration of the appeal period with no appeal filed, the administrative penalty amount shall be included on the bill for wastewater service provided to the premises where the violation occurred and shall be collected together with the wastewater service fees for the premises.

1.25.030 Administrative Penalty Amounts

- A. The following penalties may be imposed for any violation of this Code. Penalties identified in this section may be imposed to the owner of the premises where the violation occurs regardless of whether the violation is committed by the owner of the premises.
 - 1. First Violation - During Any Twelve (12) Month Period. No penalty shall be imposed, but a written notice describing the violation and the penalties for subsequent violations shall be issued to the owner and occupant (if different than the owner) of the premises where the violation occurred.
 - 2. Second Violation - During Any Twelve (12) Month Period. A penalty of \$100 shall be imposed.
 - 3. Third Violation - During Any Twelve (12) Month Period. A penalty of \$200 shall be imposed.
 - 4. Each Additional Violation - During Any Twelve (12) Month Period. A penalty of \$500 shall be imposed. (WAO-0092 § 4, 2015)