



November 21, 2014

TO: LOCSD Board of Directors
FROM: Margaret Falkner, Utility Compliance Technician III *MF*
SUBJECT: **Agenda Item 7B – 12/04/2014 Board Meeting**
Public Hearing to Consider Adopting an Ordinance Amending
Title 2 of the District Code Regarding Leak Adjustments Credits

President
Craig V. Baltimore

Vice President
R. Michael Wright

Directors
Leonard A. Moothart
Marshall E. Ochylski
Jon-Erik G. Storm

General Manager
Kathy Kivley

District Accountant
Michael L. Doyel

Fire Chief
Robert Lewin

Battalion Chief
Phill Veneris

DESCRIPTION

By motion, conduct the second reading of Ordinance 2014-01, by title only, and adopt the ordinance amending Title 2 of the District Code regarding leak adjustments.

STAFF RECOMMENDATION

Staff recommends that the Board adopt the following motions:

Motion: I move that the Board conduct the second reading of Ordinance 2014-01, by title only, and adopt Ordinance 2014-01 amending Title 2 of the District Code.

DISCUSSION

Title 2.01.20 was written to provide relief to customers in the District's water service area for fixing a leak on their side of the water meter. Many customers have repaired leaks and followed procedures to receive credits.

Amending this code to limit the criteria for a leak adjustment credit will save the District money and staff time processing the paperwork. The General Manager reviews all applications from customers and provides a credit at her discretion. If a customer should disagree with the determination of the General Manager, they will still have a process for disputes.

Title 2.01.20 provides credits for fixing water leaks. This section was amended in January, 2011 to provide additional relief for water leaks. The General Manager has authorization to grant credits at her discretion to customers that provide the required materials and meet the criteria.

This item was continued at the October 2, 2014 Board of Directors meeting and sent to the Utilities Advisory Committee (UAC) for discussion and recommendation. The UAC amended the current policy as discussed below.

The Title 2 Ordinance was considered by the Utilities Advisory Committee at their October 13, 2014 meeting and more language was recommended for Board approval. The recommendation was to change the policy to include customer service lines but exclude irrigation, toilets, and faucets.

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Customer service lines are defined as the line from the water meter on the customer's side to the home. The customer may apply for a leak adjustment credit once every 24 months and only if their bill is more than 50% greater than normal use compared to same period last year. Also the disputed bill must be paid in full before consideration of an adjustment. All credits will be suspended completely if and when the District reaches Stage III of the Water Shortage Contingency Plan. No credits will be given due to incidents caused by sewer lateral connections.

The Board of Directors introduced, by title only, and considered amending Title 2 of the District Code regarding leak adjustments at their special meeting on November 13, 2014. At that time staff was directed to notice a public hearing for December 4, 2014 for consideration of the second reading and final adoption of Ordinance 2014-01.

FINANCIAL IMPACT

The financial impact will be a savings to the water fund.

Attachments

**LOS OSOS COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2014-01**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
AMENDING AND RESTATING SECTION 2.01.20 OF TITLE 2 OF THE
DISTRICT CODE TO MODIFY LEAK ADJUSTMENT CREDIT POLICIES**

WHEREAS, The District is organized under Government code section 61000 as a Community Service District and has the authority to provide its residents with water for beneficial purposes under Government code Section 61100 (a).; and

WHEREAS, District water customers have the responsibility to maintain their water fixtures and facilities in a suitable condition to prevent the waste of water; and

WHEREAS, District water customers' pipes and fixtures can develop leaks on the customer side of the water meter resulting in high water bills; and

WHEREAS, current District policies allow for a credit of up to half of the leaked water when the customer demonstrates diligence in addressing the leak and preventing future leaks; and

WHEREAS, the District desires to limit the criteria for leak adjustments to only indoor pipe bursts;

THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT HEREBY ORDAINS AS FOLLOWS:

Section 1. Authority

This Ordinance is enacted pursuant to the California Government Code §§ 61060(a) and (b), 61100(a).

Section 2. Amendment and Restatement of Section 2.01.20 of Title 2 of District Code

Section 2.01.20 of Title 2 of the District Code is hereby amended and restated as provided in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Environmental Review

The Board of Directors of the District finds that the adoption of the Amendment and Restatement of Section 2.01.20 of Title 2 of the District Code does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*) or its implementing Guidelines (14 California Code of Regulations Section 15000 *et seq.*) ("CEQA Guidelines"). The Board of Directors finds that the adoption of the Amendment and Restatement of Section 2.01.20 of Title 2 of the District Code constitutes "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of the Amendment and Restatement of Section 2.01.20 of Title 2 of the District Code is a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of the Amendment and Restatement of Section 2.01.20 of Title 2 of the District Code may have a significant effect on the environment.

The District General Manager is authorized to prepare, execute and file a notice of exemption.

Section 4. Findings

The Board of Directors hereby finds and determines as follows:

- a. The total cost to provide water to District water customers includes both fixed costs and variable costs. The District's budget includes full cost recovery through its water billing for normal demand.

Section 5. Repeal of Prior Ordinances and Resolutions

All Ordinances, sections of Ordinances and Resolutions that are inconsistent with Section 2 of this Ordinance are **hereby repealed**.

Section 6. Incorporations of Recitals

The Recitals are true and correct and incorporated here by this reference.

Section 7. Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8. Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 9. Effective Date

This Ordinance shall take effect thirty (30) days from date of its passage hereof. Before the expiration of fifteen (15) days after the adoption of this Ordinance, Exhibit A shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a newspaper of general circulation within the District.

Introduced at its special meeting of the Board of Directors held on November 13, 2014, and passed and adopted by the Board of Directors of the Los Osos Community Services District on the 4th day of December 2014, by the following roll call vote, to wit:

Upon motion of Director _____, seconded by Director _____
and on the following roll call vote, to wit:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

Craig V. Baltimore
President of the Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Kathy A. Kivley
General Manager and Secretary to the Board

Michael W. Seitz
District Legal Counsel

EXHIBIT A

2.01.20 Credits for Fixing Water Leak (Adopted 12/4/2014)

A. Application: The General Manager shall make available to any customer an application form that customers can use to apply for a credit. The customer may apply if the current bill is 50% greater than normal usage during the same period the prior year. Prior to being considered for a leak adjustment, the customer must pay an amount equal to the same usage as the previous year or same usage as previous bill if they have not owned the home for a year. The customer may apply if they have experienced a water leak in their service line and can prove that such leak has been promptly corrected. Customer service lines are defined as the line from the water meter on the customer's side to the home. Exemptions from credits include leaks in irrigation systems, toilets, and faucets. The application shall include:

- The date of discovery of the leak;
- The date of repair;
- Evidence such as dated plumbing bills and receipts for materials and supplies related to the leak repair; and
- The signature of the water customer.

B. Process: The General Manager shall review all application forms received by customers. The General Manager shall approve a credit of up to 50% of the differential of the highest billing period invoice during the tenure of the leak and the average of all invoices for said customer over the last twelve-month period if the General Manager, in his/her discretion, finds:

1. The leak was related to a physical break in the customer's service line; and
2. The leak was promptly repaired after the discovery; and
3. The customer has not received an LOCSD water leak credit during the preceding twenty-four (24) month period.

C. Disputes: Any customer that disputes a determination by the General Manager may seek Board of Directors review of said determination by paying the established fee and making written application to the Board of Directors, in care of the General Manager, within ten (10) business days of the General Manager's decision. The decision of the Board of Directors shall be final.

D. All credits are suspended completely if and when the District reaches Stage III of the Water Shortage Contingency Plan.

E. No leak adjustments will be given for incidents due to sewer lateral connection work.