

**ORDINANCE NO. 2023 – 2**

**AN ORDINANCE OF THE SCOTIA COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS  
AMENDING ORDINANCE 2021-7 TITLE V – STREETS AND STREET LIGHTING**

The Board of Directors of the Scotia Community Services District does ordain as follows:

**Section 1:** Title V (Streets and Street Lighting) is hereby adopted as follows:

**TITLE V – STREETS AND STREET LIGHTING**

**CHAPTER 1 – BASIS OF AUTHORITY AND PURPOSE**

**SEC. 1.01. BASIS OF AUTHORITY.** Ordinance 2017–1 dated 2/16/2017, amended with Ordinance 2021-1 dated March 18, 2021, amended with Ordinance No. 2021-7 dated September 16th, 2021.

**SEC. 1.02. PURPOSE AND POLICY.** This article sets forth the standards, processes and fees associated with streets and street lighting services. The District desires to encourage the long-term maintenance of streets and street lighting under District ownership where the maintenance is either required by the Humboldt County Board of Supervisors (County) or requested by residents of a specific area under the responsibility of the District. This article is intended to implement the provisions of the Improvement Act of 1911 (Division 7 of the Streets & Highways Code §5000 *et seq.*) herein referred to as the "Act."

**CHAPTER 2 – DISTRICT DESIGNATED STREETS, ALLEYS, AND LIGHTING**

**SEC. 2.01. DESIGNATED STREETS AND ALLEYS.** The streets and alleys of District responsibility are defined by resolution and approved by the Board of Directors of the District and designated on maps of the District, and are on file in the District office. Any additions to the District responsibility which have been accepted and approved by the County and the District Board of Directors in future phases of subdivision will be adopted in the same manner.

**SEC. 2.02. DESIGNATED LIGHTING.**

- A. The lights of District responsibility are defined by resolution and approved by the Board of Directors of the District and designated on maps of the District, and are on file in the District office. Any additions to the District responsibility which have been accepted and approved by the County and District Board of Directors in future phases of subdivision will be adopted in the same manner.
- B. The District owns and maintains approximately twenty (20) historic decorative lights that primarily front Main Street. These lights are maintained by District staff or a sub-

contractor, at the District's discretion. The historic decorative lights are separately metered and the District pays associated electric charges to PG&E.

- C. The District is responsible for payment of the electric charges associated with lights that PG&E owns, which includes any maintenance costs. These PG&E Lights are owned and maintained by PG&E and located throughout the residential streets in Scotia.
- D. Any property owner requesting installation of any additional streetlight, on or adjacent to their property, shall be required to pay for the cost of installing the streetlight and the cost to maintain the streetlight.

### **CHAPTER 3 - GENERAL PROVISIONS**

**SEC 3.01. RULES, REGULATIONS, AND RATES.** The Board reserves the right and power to from time to time by resolution adopt rules and regulations for the operation and maintenance of the streets and street lighting facilities of the District, and may likewise by resolution establish and modify the rates, charges, and penalties, consistent with, the Engineer's Report for Assessment of Streets and Street Lighting Benefits, which is on file in the District office and on the website.

**SEC 3.02. FEE CHARGE FIXED BY RESOLUTION.** The District Board shall, by resolution, adopt an annual Master Fee Schedule of service charges and fees which enable the District to operate and maintain District facilities including the streets and street lighting system. The charges/fees shall be levied against the owner or tenant of any developed parcel of property that is served by the District's streets and street lighting system.

**SEC 3.03. BILLING.** The regular billing period will be for each calendar month, as determined by the Board. Annual Benefit Assessments, such as the Streets and Street Lighting Assessment, are billed once per year, typically on the August bill. Opening and closing bills for less than the normal billing period shall be prorated on a daily-use basis. Bills for service shall be rendered at the beginning of each billing period and are payable upon presentation and due within 30 days. Charges are outlined in the Master Fee Schedule. Charges which are not paid on or before the day of delinquency shall be subject to a penalty in accordance with California Government Code §61115.

**SEC. 3.04. COLLECTION.** All unpaid charges and penalties herein provided may be collected by suit, collection agency, application to the County tax roll, or any other method as determined by District. Defendant shall pay all costs of suit in any judgment rendered in favor of District.

**SEC. 3.05. COLLECTION BY INTERAGENCY INTERCEPT PROGRAM.** As an alternate to any of the other procedures herein provided, the District may collect unpaid charges through the State of California Interagency Intercept Program or other collection agency as determined by the District. Upon submitting an unpaid charge to the collection agency, the District will also notify the customer at the last known customer address. Customers may appeal said submittal by filing an appeal with the District.

**SEC. 3.06. VANDALISM OF STREET LAMPS.** No person shall vandalize, break, or damage any lamppost or public lamp; nor extinguish any public light or any light maintained at any place for public convenience or safety, except when authorized to do so; nor remove, or cause the removal of, any portion from any public lamp or post; nor obliterate, deface, destroy or interfere with the lights.

**SEC. 3.07. FENCE PROHIBITIONS.** No person shall place, use or maintain any fence, blockage, etc. within a public easement or right of way.

**SEC. 3.08. BARBED WIRE PROHIBITED.** No person shall place, use or maintain any barbed wire on any fence, etc. thereof, fronting on a public lane, alley, avenue, street, highway, sidewalk, crosswalk, park or place.

**SEC. 3.09. WATER DISCHARGE FROM PRIVATE PROPERTY.** No person shall cause or permit water from private property to be discharged in or to flow into or on any District street, alley or easement or cause erosion problems.

**SEC. 3.10. ENCROACHMENT PERMIT.** A District Encroachment Permit (Permit) is required for any activities, materials, and equipment which will occupy the District's right-of-way, including but not limited to, alleys, sidewalks, and streets. The Permit is required for any excavation within the District's right-of-way.

An encroachment shall include, but is not limited to, any tower, pole, pipeline, private pipe, private pipeline, non-standard driveway, private road, fence, billboard, stand or building, or any structure or object of any kind, which is placed in, under, or over any portion of the District's right-of-way.

The Permit provides the necessary regulation for the encroachment process, to safeguard the public interests in the District roadway facilities, and pedestrian access areas for the safety and convenience of the traveling public.

The Permit constitutes written permission, from the District, to encroach within the District's right-of-way as set forth in the Permit. A Permit may be granted, by the District, to a property owner, a contractor, or a public utility. A Permit for a property owner shall specify whether the work is to be performed by the property owner or a contractor. Any property owner, contractor, or public utility performing work within the District's right-of-way shall provide the District with the required Certificate(s) of Insurance and Endorsement(s) as identified in the District's Application for Encroachment Permit form. The applicant(s) shall also provide additional project and design information as required by the District's Application for Encroachment Permit form.

All Permits, other than those issued to public agencies or a public utility with legal authority to occupy the public road right-of-way, are revocable on five (5) days' notice. The encroachment must be removed or relocated, as specified by the District General Manager. Encroachments not removed within the specified time shall be removed by the District, or their authorized contractor, at the cost of the property owner. Any encroachment determined by the District to obstruct or prevent public use of the District right-of-way, consisting of refuse, causing a traffic hazard, or impeding pedestrian access shall be removed immediately.

Costs associated with Encroachment Permits shall be reflected in the District's Master Fee Schedule. Encroachment violation fees will be charged to the property owner in addition

to an encroachment permit for investigation of unpermitted construction at actual cost to the District.

**SEC. 3.11. WHEELED DEVICES IN POSTED AREAS.** No person shall bicycle, roller skate, skateboard or use any other wheeled device propelled, in whole or in part, by human power in any District public area posted against such activities or uses. The provisions of this section shall not apply to wheeled devices which are reasonably necessary to assist those with a temporary or permanent disability.

## **CHAPTER 4 - OBSTRUCTION OF STREETS AND SIDEWALKS**

### **SEC. 4.01. OBSTRUCTION OF STREETS AND SIDEWALKS PROHIBITIONS AND EXCEPTIONS.**

- A. It is declared a nuisance and is unlawful for any person to place an obstruction of any kind in a District street or alley, or to authorize, procure or permit any obstruction to be placed therein or thereon; provided that businesses and others receiving and delivering goods, whose premises are not served by an alley, shall be allowed two (2) hours from the time such goods are deposited on a sidewalk or parkway until they are removed. A space five (5) feet in width shall at all times be kept clear for a combination of persons passing. Each day any such obstruction is maintained or permitted in any such street or alley shall be deemed a separate offense.
- B. The provisions of this section shall not apply to:
  - 1. The temporary obstruction of streets or alleys while buildings or structures are being moved from one place to another.
  - 2. Temporary obstructions for which encroachment permits have first been obtained from the District General Manager.
  - 3. Potted shrubs, plants, or other landscaping, clocks, drinking fountains and public telephones placed or maintained upon a public parkway or sidewalk within the District by any person who has first obtained an encroachment permit in writing to do so from the District General Manager.

**SEC. 4.02. GATES.** It is unlawful to place or leave any gate extended across or upon any District street, alleyway or easement resulting in an obstruction to persons passing thereon.

**SEC. 4.03. STORING PRIVATE PROPERTY.** No person shall store private property upon any District street, alley, or easement or other public place in the District, so as to obstruct the free use of these areas, as determined by the District General Manager. Items prohibited include, but are not limited to, appliances, inoperable vehicles, firewood, construction materials, wagons, bikes, scooters, trampolines, basketball hoops, trash, garbage, compost piles, cans, or debris. Operable vehicles may be parked, in the District right-of-way, no longer than 24 hours. Long term operable vehicle parking is prohibited and subject to tow away per the California Vehicle Code and as determined by the District General Manager.

## CHAPTER 5 - WIRES OVER STREETS

**SEC. 5.01. PERMIT REQUIRED.** No one without an existing easement shall run, stretch or maintain through, along or across any District street, alley or easement any wire, cable, rope or cord, on poles or otherwise, without first obtaining a District Permit to do so from the District General Manager.

**SEC. 5.02. ELECTRIC OR NON-ELECTRICAL WIRES.** Any person now holding, or who may hereafter obtain, an easement permitting the use of public streets, avenues, alleys, highways or public places in the District for the purpose of running or stretching wires therein, shall comply with the regulations set out in this section concerning the running or stretching of such wires. All wires used for the purpose of conducting an electric current or electricity for the purpose of producing electric light or non-electrical shall be run or stretched at least thirty feet above the ground and all other wires shall be placed at least two feet below the electric light or non-electrical wires.

## CHAPTER 6 – EXCAVATIONS

**SEC. 6.01. LIGHTING DANGEROUS PLACES.** Any District approved excavation on a public street, avenue, alley, sidewalk, public park, or place that may be determined dangerous shall require the following:

- A. Obtain a District Permit ; and
- B. Erect adequate lighting and maintain an appropriate and substantial barrier approved by District around the portion of the project made dangerous, as long as the danger may continue; and
- C. Lighting and barriers shall be maintained during every night, from sunset to daylight, suitable warning lights at the ends of every portion of the area so made dangerous, and at every side of a street crossing so made dangerous.

**SEC. 6.02. PROPERTY OWNER RESPONSIBILITY FOR MAINTENANCE.**

- A. The District may permit a property owner to maintain trees within a District alley easement, provided the type of tree planted therein is approved by the District General Manager.
- B. All trimming and other maintenance work upon such trees shall be done by a licensed tree trimmer or by the owner under the general supervision of District staff and in accordance with this chapter.

**SEC. 6.03. PROPERTY OWNER RESPONSIBILITY FOR REMOVAL.**

- A. The District General Manager may permit a property owner to remove trees from District property or easement adjoining or within their property.

**SEC. 6.04. NUISANCE ON PRIVATE PROPERTY.**

- A. Whenever any tree adjacent to or overhanging any District street, alley or public area is in such condition as to constitute a hazard or impediment to public travel, it shall be declared a public nuisance.
- B. If the owner of the private property on which the tree is located does not correct or remove the nuisance within ten (10) days after receipt of written notice thereof from the District General Manager, the District shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner.
- C. Property owners are prohibited from using any pesticide or herbicide within District streets, alleys or easements and shall control such usage on private property from encroaching on District property, easement or public space.

**SEC. 6.05. LIABILITY.** Nothing contained in this chapter shall be deemed to impose any liability upon the District, its officers or employees, nor to relieve the owner of private property from the duty to keep any tree on his property from constituting a public nuisance.

**SEC. 6.06. EXCAVATION APPEAL.**

- A. Any person aggrieved by the action or proposed action of the District acting under this chapter may appeal the decision to the District Board of Directors, whose decision shall be final.
- B. Such person shall file a notice of appeal, in writing, with the District within seven (7) business days after the action or proposed action of the District.

**SEC. 6.07. UTILITY MAINTENANCE.** Any person owning, maintaining or operating any gas pipes, or mains beneath the surface or any District planting strip, street, easement or public area shall properly maintain such utilities to prevent damage to District property or easement. If such person neglects to provide proper maintenance of such utilities and such neglect results in damage to District property or easement, the full cost of repair shall be borne by such person

**CHAPTER 7 – BENEFIT ASSESSMENT INTERPRETATION AND APPEAL**

**SEC. 7.01. INTERPRETATION.** The Streets and Street Lighting Benefit Assessment (Assessment) uses a weighted method of apportionment, known as an Equivalent Benefit Unit (EBU) methodology, which uses a single-family home as the basic unit of assessment. One EBU is equivalent to ten (10) trips/day, representative of traffic generated by a single-family dwelling unit, based upon land use driven trip generation. Further details may be found in the Engineer’s Report.

The Assessment was established with an annual 1.5% escalation factor to account for cost-of-living increases for an initial five (5) year period, beginning in fiscal year 2016/2017. The Assessment may also be increased, annually, to an amount not to exceed 3.0% based on the consumer price index (CPI) if approved by the District Board of Directors.

Additionally, proposed changes to the Assessment may also occur based on “pass through” costs, which include the purchase of uncontrolled, mandatory services (such as, utility costs). Further details and explanation may be found in the Engineer’s Report.

Any new or increased Assessment, above the allowed CPI increase or “pass through” costs, would require a Proposition 218 proceeding and property owner approval.

**SEC. 7.02. APPEALS.** Any property owner who claims that the Assessment levied on their property is in error as a result of inaccurate or incorrect information being used to apply the method of assessment, may file a written appeal with the District General Manager. Any appeal is limited to the current fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>). The District General Manager will review the appeal and determine what information will be required, by the District, from the property owner. The required information may include, but is not limited to, the number of employees, an engineering firm analysis, floor plans, property parcel maps, the number of vehicles used, and the type of business. All costs for the required information will be paid by the property owner.

Any Assessment dispute over the decision of the District General Manager shall be referred to the District Board of Director’s. The decision of the District Board of Director’s shall be final.

Any approved changes to the Assessment, by the District Manager or the District Board of Director’s, within the current fiscal year, will be refunded by the District.

## **CHAPTER 8. – ENFORCEMENT**

**SEC. 8.01 AUTHORITY.** California Government Code Section 61064(a) states the “violation of any rule, regulation, or ordinance adopted by a board of directors is a misdemeanor punishable pursuant to Section 19 of the Penal Code.” California Government Code Section 61064(b) allows any citation issued by the District for the violation of a rule, regulation, or ordinance adopted by the Board “may be processed as an infraction pursuant to subdivision (d) of Section 17 of the Penal Code.” Finally, Cal. Gov’t Code 61064(c) allows the Board to confer on “designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or district rules, regulations, or ordinances when the violation is committed within a facility and in the presence of the employee issuing the citation. District employees shall issue citations pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.”

**SEC. 8.02 DESIGNATED EMPLOYEES.** A violation of this section is punishable as a misdemeanor or infraction, chargeable at the District General Manager's or District Legal Counsel's discretion. Each act that violates this Streets and Street Lighting Ordinance is a violation of the District's laws and shall constitute a separate offense.

**SEC. 8.03 PENALTY.**

- A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this ordinance or the provisions of any ordinance adopted by reference by this ordinance. Any person violating any of such provisions or failing to comply with any of the mandatory requirements of this ordinance shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this ordinance shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for every day during any portion of which any violation of any provision of this ordinance, or the provisions of any ordinance adopted by reference by this ordinance, is committed, continued, or permitted by such person and shall be punishable accordingly. Any violation of this ordinance which is declared to be a misdemeanor shall be considered and treated as an infraction subject to the procedures described in Cal. Penal Code §§ 19.6 and 19.7, when:
1. The District General Manager or District Legal Counsel files a complaint charging the offense as an infraction unless the defendant, at the time he is arraigned, after being informed of his rights, elects to have the case proceed as a misdemeanor; or
  2. The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.
- B. In addition to the penalties provided by this section, any condition caused or permitted to exist in violation of any of the provisions of this ordinance, or the provisions of any ordinance adopted by reference by this ordinance, shall be deemed a public nuisance and may be summarily abated by this District, and each day such condition continues shall be regarded as a new and separate offense.
- C. Each violation of this ordinance expressly declared to be an infraction is punishable by:
1. A fine not exceeding \$50 for the first violation;
  2. A fine not exceeding \$100 for the second violation of the same ordinance within one year;
  3. A fine not exceeding \$250 for each additional violation of the same ordinance within one year.



**Section 2: Severability.** If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The Board of Directors hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

**Section 3: California Environmental Quality Act (CEQA) Determination.** Under the EIR that was completed upon the formation of the Scotia Community Services District, a determination was made that the District would not result in a significant environmental impact. This ordinance is also exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**Section 4: Limitation of Actions.** Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

**Section 5:** This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: January 19, 2023

ATTEST:

*Amber Sandum FOR Julie Hawkins*  
Clerk, Scotia Community Services District

APPROVED:

*Paul Newmaker*  
President, Scotia Community Services District

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 2023-2, passed and adopted at a regular meeting of the Board of Directors of the Scotia Community Services District, Humboldt County, California on the 19<sup>th</sup> day of January 2023, by the following vote:

AYES: *Andsted, Newmaker, Pryor, Selten*  
NOES: *none*  
ABSENT: *Black*  
ABSTENTIONS: *none*

*Amber Sandum For Julie Hawkins*  
Board Clerk, Scotia Community Services District

