

ORDINANCE NO. 1-89

AN ORDINANCE OF  
THE LAKE SHASTINA COMMUNITY SERVICES DISTRICT  
ADOPTING REGULATIONS WITH RESPECT TO DISPOSITION  
OF PERSONAL PROPERTY FOUND OR SAVED ON PROPERTY  
WITHIN ITS JURISDICTION

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE LAKE SHASTINA COMMUNITY SERVICES DISTRICT, SISKIYOU COUNTY, CALIFORNIA AS FOLLOWS:

Any personal property found or saved on property subject to the jurisdiction of the DISTRICT shall be held by the DISTRICT for a period of at least three (3) months, under the safekeeping and physical control of the Chief of Police of the DISTRICT.

If the property remains unclaimed, at any time after the expiration of the said period, and after notice in a newspaper of general circulation published within this County has been given by the General Manager of the DISTRICT at least five (5) days before the time fixed for sale, said property may be sold under the direction of the Chief of Police, at public auction to the highest bidder, or if the DISTRICT Board of Directors determines that any such property is needed for public use, such property may be retained by the DISTRICT for its use.

Any notice of sale hereunder may, in the discretion of the General Manager, either generally or specifically describe the property to be sold. In addition to publication of the notice of sale in a qualified newspaper, the General Manager shall take such other actions as he may deem appropriate to make the sale known to the public.

At the auction, the Chief of Police may employ and retain the assistance of such persons as he deems appropriate. The District reserves the right to reject all bids.

Any property remaining unsold after being offered at such public auction may be destroyed, or otherwise disposed of in the discretion of the Chief of Police.

The net proceeds of any sale of such personal property shall be paid to the Treasurer of the DISTRICT, for deposit into the General or Unrestricted Account.

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Passed and adopted this 12th day of December, 1989 at a regular meeting of the Board of Directors by the Board of Directors by the following vote:

- AYES: Spahr, Trager, Wallace, Johns and Applegate
- NOES: None
- ABSENT: None
- ABSTAIN: None

*J. Richard Spahr*  
\_\_\_\_\_  
J. RICHARD SPAHR, President

ATTEST:

*Mary M. Krolak*  
\_\_\_\_\_  
MARY M. KROLAK, District Secretary

COPY

GENERAL ORDER:

11/89

PROCEDURES IN HANDLING AND DISPOSITION OF PROPERTY

PROCEDURES FOR HANDLING PROPERTY

I. CLASSIFICATIONS OF PROPERTY

- A. Evidence: Property which may be related to a crime or which may implicate or clear a person of a criminal charge.
- B. Found Property: Nonevidentiary property which, after coming into the custody of the agency, has been determined to be lost or abandoned and is not known or suspected to be connected with any criminal offense.
- C. Property Held for Safekeeping: Nonevidentiary property which is in the custody of the agency for temporary protection on behalf of the owner.

II. PROCEDURES FOR DEPOSITING PROPERTY

- A. Duties of Employees Who Take Property Into Custody
  - 1. The employee shall, in every instance, place all property obtained in the course of his or her employment in the agency's property system prior to going off duty. In no instance shall an employee store property in a personal locker or other unauthorized locations.
  - 2. The employee shall prepare, i.e., a follow-up report, miscellaneous event report, etc. (describing how, what, when, where, he or she came into possession of the property) as well as a Property Record/Receipt.
    - a. Except for items that are placed in a marked evidence container, upon which a facsimile of the property stamp has been placed, the employee shall also prepare a Property Tag and attach it to the property item.
  - 3. The employee shall make appropriate inquiries to the National Crime Information Center and the State Department of Justice computer regarding serialized or identifiable items of property to determine if the property is reported stolen.

#### 4. Special Handling Procedures

- a. The employee shall place small property items, together with the Property Record/Receipt, in a temporary storage property locker.
- b. The employee shall arrange that the Chief of Police examine the money, valuables and narcotics, and witness the placement of the property in an evidence container and the sealing and deposit of the container in a temporary storage property locker.
- c. The employee shall deposit large items (such as bicycles, tires, etc.) in a storage shed or designated area. On occasion, valuables or large items of property, e.g., valuable property or property items that should not be tampered with or that need further processing, may be placed in the property room.
  - 1). The employee shall secure such items left in (the storage building) with a chain and padlock whenever possible.

#### 5. Items Requiring Special Handling:

##### a. Firearms

- 1). An employee delivering a firearm shall unload the firearm before entering the agency facility. If the firearm cannot be unloaded because of a malfunction or the employee's unfamiliarity with the firearm, the employee shall attach a note to the firearm describing the malfunction and/or a warning that the firearm has not been unloaded before depositing the firearm.

##### b. Flammables

- 1). Employees shall not bring flammables into the agency facility. Flammables should be stored in a safe location at the CSD yard after giving the proper notice to the Fire Department. Flammables should be disposed of as soon as practical.

c. Explosives and Perishable Items

- 1). Explosives on perishable items will be photographed and in the event the property is related to a crime, secure permission from the prosecuting attorney to dispose of the property. Fire Department personnel are to be consulted with regard to explosives.
- 2). Dangerous explosives are not to be handled only by experts provided by the Department of Justice, or Military Services. Refer to the manual for Department of Justice Services.

WITHDRAWAL AND RETURN OF PROPERTY

I. WITHDRAWAL AND RETURN OF PROPERTY, GENERALLY

A. Withdrawal:

1. Property may be temporarily withdrawn from the property storage area for:
  - a. Intra-agency reasons (e.g., for purposes of identification), or
  - b. Inter-agency reasons (e.g., for laboratory examination or use in court).

B. Return

1. Return of property, as used in this order, means return to the custody of the Chief of Police or designee, or established storage area.

II. WITHDRAWAL OF PROPERTY

A. Personnel authorized to withdraw property:

1. Only the employee assigned to investigate a case or an employee authorized by the Chief of Police is permitted to withdraw property.

B. Procedures for the withdrawal of property

1. The following procedures shall be completed in all instances:
  - a. An authorized employee of this agency shall sign his or her name on the back of the Property Record/Receipt form beside each item that is withdrawn.

- b. The Chief of Police shall note in the spaces provided on the back of the Property Record/Receipt form the item number, destination, date and time, and shall sign his/her name beside each item that is withdrawn.

### III. RETURN OF PROPERTY

#### A. Procedures for the Return of Property

1. Property withdrawn from the property storage areas, but not retained at its destination, shall be returned to the property system as follows:
  - a. The person returning the property shall sign his or her name in the space provided on the back of the Property Record/Receipt form.
  - b. The person returning the property shall sign his or her name in the space provided on the Property Transfer form, and shall place the returned property, together with the Property Transfer form, in a temporary storage property locker.

### DISPOSAL OF PROPERTY

#### I. DISPOSAL OF PROPERTY, GENERALLY

##### A. Authorized Methods of Property Disposal

1. Return to owner or finder
2. Sale
3. Agency or other public use
4. Destruction

##### B. Procedures Applicable to all Methods of Property Disposal:

1. No item of property held by the agency shall be disposed of in any manner until a Property Release Authorization form, containing the Chief of Police's signature of approval and listing disposal instructions.
  - a. Property Release Authorization forms shall be prepared by:

- 1). The employee handling the case in which a person has been arrested upon receipt of the Disposition of Arrest and Court Action (JUS 8715) form which indicates a final disposition of the case; or
  - a). When there are two or more defendants involved, property shall not be disposed of until all defendants' trials have been concluded.
  - b). Property shall not be disposed of until the period for appeals has closed and all appeals have been concluded.
2. The Chief of Police shall send a letter or teletype to the Special Services Section of the State Department of Justice regarding all non-serialized property, which has unique characteristics or inscriptions, and that is authorized for disposal.
3. No property item shall be released without the signature of the person receiving the property.

## II. RESTITUTION OF PROPERTY

- A. Following receipt of an approved Property Release Authorization form, a Property Release Notice form will be mailed to the owner of the property.
  1. If the property to be returned is either stolen or embezzled and was taken from the custody of a person, not the owner, the Chief of Police shall mail a Notice of Claim of Ownership for Stolen or Embezzled Property form to the person from whom the property was taken.
    - a. Disputed Ownership
      - 1). If the person who is served with the Notice of Claim of Ownership for Stolen or Embezzled Property form, does not respond with a claim to the property within 15 days from the date of receipt of the service, the property shall be returned to the owner or disposed of in accordance with the provisions of this Order.

- 2). If a person who is served with a Notice of Claim of Ownership for Stolen or Embezzled Property form, does respond claiming ownership, the person from whose custody the property was taken, shall be told to apply to the court of jurisdiction for a determination of ownership.
  - b. Prior to the return of stolen or embezzled property, the Chief of Police shall cause a photograph to be made of the property. This photographic record shall be filed in the agency case file with which the property is associated.
  - c. If the property that is stolen or embezzled is not claimed by the owner within three months from the date of receipt of the service of the Property Release Notice form, the property shall be disposed of in accordance with the provisions of this Order.
2. If property to be returned is found property, and (a) no owner has proved ownership within 90 days, and (b) the finder has stated on a Found Property Affidavit his or her desire to claim the property, the following procedures shall apply.
  - a. If the property is valued at less than \$50, it may be released to the finder after he or she signs the Property Release Authorization form.
  - b. If the property is valued at \$50 or more, the Chief of Police shall cause a notice of the property to be published in a newspaper of general circulation in the county. If no person claims ownership within seven days after the first publication, the property may be released to the finder upon the finder paying the cost of publication and signing the Property Release Authorization form.
3. An owner, who claims found property, shall pay any costs which may have been incurred for the storage and care of the property.
4. If property that is found property, is not claimed by the owner or finder within 120 days from the date of deposit in the Property Section, the property shall be disposed of in accordance with the provisions of this Order.
5. Property found in the course of employment by an employee of any public agency shall be sold at public auction pursuant to LSCD Ordinance # unless the item of property is illegal to possess,

in which case, the property item shall be destroyed.

B. Property shall be released to the owner only after the owner has:

1. Provided satisfactory proof of ownership; presented proper personal identification; and signed the declaration of ownership on the Property Release Authorization form.

### III. SALE OF UNCLAIMED PROPERTY

Once each year or more often if need be, property which has not been released in accordance with Part II of this Order, and which is not required to be destroyed, shall be sold at public auction, pursuant to LSCD Ordinance #

A. Notwithstanding an order from the court to the contrary, money, which is in the possession of the Property Section, and which cannot be lawfully returned to its owner, after consultation with the appropriate prosecuting attorney, shall be deposited in the Lake Shastina CSD general fund. (See Penal Code Sections 335a and 1418 and Health and Safety Code Sections 11488, etc.)

### IV. DESTRUCTION OF PROPERTY

A. Controlled Substances and Associated Paraphernalia

1. Destruction Pursuant to a Court Order

- a. The Chief of Police shall make application for a court order to destroy all controlled substances (except as provided in Part IV, a, 2 of this Order), and associated paraphernalia.
- b. The application shall list descriptions, quantities and weights of all separate items to be destroyed.
- c. Upon receipt of the court order, the material shall be destroyed (or delivered for destruction to the California Department of Justice) as specified in this Order.
  - 1). Destruction of controlled substances shall be accomplished by burning or another method approved by the agency head.
  - 2). Destruction of the material shall be witnessed by the Chief of Police and one other employee.



2. Destruction Not Pursuant to a Court Order

- a. In instances when the weight of a suspected controlled substance is substantial, and it is not reasonably possible to preserve the material in place or move it to another location, the controlled substance in excess of ten pounds, or hazardous chemical in excess of two ounces and its container, which were used or intended for use in the unlawful manufacture of controlled substances, may be destroyed without a court order, when all of the following conditions have been met:
- 1). At least five random and representative samples of the suspected controlled substance (ten or more pounds) have been taken for evidence, and
  - 2). At least one 2-ounce sample has been taken from each suspected hazardous chemical, and
  - 3). Photographs have been taken which reasonable demonstrate the total amount of the suspected controlled substance or suspected hazardous chemical container, and
  - 4). The gross weight of the suspected controlled substance or suspected hazardous chemical has been determined by either weighing or estimating after dimensional measurement, and
  - 5). The agency head has determined that it is not reasonably possible to preserve all of the suspected controlled substance or suspected hazardous chemical in place or to move it to another location.
- b. An affidavit stating that the conditions in Part IV, 2, a, 1-5 have been met shall be filed in court within thirty days following the destruction of the suspected controlled substance or suspected hazardous chemical.
- c. Records shall be maintained concerning the details of the compliance of Health and Safety Code Section 11479 which includes information from Part IV, 2, a, 1-5 and which establishes the location of the controlled substance or respected hazardous chemical and its container and specifies the

date and time of the disposal.

B. Firearms and Weapons

1. Weapons Defined as "Nuisances"

- a. The Chief of Police shall make application, by June 30th of each year, for a court order authorizing the destruction of weapons, which are subject to disposal, and are defined by Penal Code Section 12028 as "Nuisances". The application shall list the weapons to be destroyed by make, model, caliber and serial number.
- b. In accordance with Penal Code Section 12028, weapons described as "Nuisances" shall be destroyed between the first and tenth days of July in the year following their acquisition by the agency.

2. Weapons defined as "Destructive Devices" by Section 12301 of the Penal Code and machine guns described in Section 12251 of the Penal Code, which were unlawfully possessed, must be surrendered to the California Department of Justice unless a certificate, signed by a judge or district attorney stating that the preservation of such destructive devices or machine guns is necessary to serve the ends of justice, is filed with the California Department of Justice.

- C. Destruction of firearms and weapons shall be accomplished in the presence of the Chief of Police and one other agency employee who shall act as a witness.
- D. The Chief of Police shall delete information regarding all property destroyed, which is serialized, from the appropriate State computer.
- E. The property controller shall maintain a list of all property that has been destroyed and a copy of this report shall be forwarded to the agency head.

V. PROPERTY ACQUIRED FOR AGENCY OR OTHER PUBLIC USE

Civil Code Section 2080.4 and Penal Code Section 1411 provide that if a city or county has enacted an enabling ordinance, certain unclaimed property held in the custody of the agency may be retained for agency or other public use, rather than being sold or destroyed. (Penal Code Section 12028 and 12030 provide the authority for acquisition of firearms for agency use.)

I hereby certify that the foregoing Ordinance was duly and regularly passed and adopted by the Board of Directors of the Lake Shastina Community Services District, Siskiyou County, at a meeting thereof held on the 12th day of December, 1989, by the following vote of the members thereof:

AYES, and in favor thereof, Directors: *Spahr, Trager, Johns, Wallace and Applegate*

NOES, Directors: *None*

ABSENT, Directors: *None*

*Mary M. Krolak*  
Secretary  
Lake Shastina Community Services District

(SEAL)

VI. NEW BUSINESS

A. McCloud CSD and how they are structured. - President presented a written break down of general structure of the McCloud CSD and by reference is incorporated herein.

B. Correction of Amendment No. 2, First Amended Joint Powers Agreement - CSD Resolution 13-89: Director Wallace moved and duly seconded by Director Applegate to approve Resolution 13-89 pertaining to correction of Amendment No. 2, First Amended Joint Powers Agreement. Upon vote, motion carried unanimously. By reference incorporated herein.

C. First Reading of Ordinance No. 1-89 Adopting Regulations with Respect to Disposition of Personal Property Found or Saved on Property Within The Lake Shastina CSD Jurisdiction: First reading of Ordinance No. 1-89 was read into the minutes by President Spahr. Director Trager moved and duly seconded by Director Wallace to adopt regulation with respect to disposition of personal property found or saved on property within the Lake Shastina CSD jurisdiction. Upon vote, motion carried unanimously.  
NOTE: Second reading December 12, 1989 at CSD regular meeting.

D. First Reading of Ordinance No. 2-89 Adopting Gravity Hookup Fee of \$510 and Low Pressure Hookup Fee of \$1600 - First reading of Ordinance No. 2-89 was read into the minutes by President Spahr. Director Applegate moved and duly seconded by Director Wallace to approve ordinance for second reading on December 12, 1989. Upon vote, motion carried unanimously.

E. Set Date to Meet with General Manager and Director of Public Works for Annual Evaluation and Review of Contract Renewable on 12/1/89 - Director Wallace moved and duly seconded by Director Trager to authorize CSD President to meet with other agency presidents to prepare annual evaluation and review of contracts for General Manager and Director of Public Works renewable on 12/1/89.

VII. PUBLIC COMMENT - None to report.

VIII. CLOSED SESSION/Personnel Matters - Action reported out of "Closed Session" was that meeting and "Closed Session" is to be adjourned to Wednesday, November 15, 1989 at 3:30 p.m.

Meeting was reconvened at 3:30 p.m. on Wednesday November 15, 1989 with all five (5) directors present as well as Commissioner Harrison and Fire Chief Allen.

Action reported out of "Closed Session": Director Trager moved and duly seconded by Director Wallace to request Fire Chief Tom Allen to relinquish his position after he receives written notification. Upon roll call vote - AYES: Spahr, Trager, Wallace and Applegate NOES: none ABSTAIN: Johns

IX. ADJOURNED - There being no further business the regular meeting of 11/14/89 was adjourned to a "Closed Session" for personnel reasons at 4:30 p.m. The "Closed Session" was adjourned at 5:45 p.m. to Wednesday, November 15, 1989 at 3:30 p.m.

Respectfully submitted,  
*Mary M. Krolak*  
MARY M. KROLAK  
District Secretary

c. Parks & Recreation UP-89-21 Issued by Planning Commission 11/20/89 - Board requested General Manager to make copy of current Park Proposal and forward it to SDIA for an updated insurance price quote.

d. Contract renewals for General Manager and Director of Public Works - President Spahr reported that the Presidents of other agencies met November 28, 1989 with DFW & GM to negotiate their respective employment contracts. It was agreed to increase DFW's salary \$1200 or 4.1% increase and to increase GM's salary \$1400 or a rate increase of 4.6%. Rationale used, is to keep their raises consistent, percentage wise, with cost-of-living increases for other employees. Secondly, the presidents agreed there should be a gradual increase of differential between two positions.

B. Second Reading of Ordinance No. 1-89 Adopting Regulations with Respect to Disposition of Personal Property Found or Saved on Property Within The Lake Shastina CSD Jurisdiction - After second reading, Director Trager moved and duly seconded by Director Applegate to approve Ordinance 1-89 pertaining to disposition of personal property found or saved on property within its Districts jurisdiction. Upon vote, motion carried unanimously.

C. Second Reading of Ordinance No. 2-89 Adopting Gravity Hookup Fee of \$510 and Low Pressure Hookup Fee of \$1600 - After second reading, Director Applegate moved and duly seconded by Director Wallace to raise sewer hookup fees for Gravity from \$500 to \$510 and Low Pressure from \$1510 to \$1600. Upon vote, motion carried unanimously.

NOTE: Certificate of Posting of above two ordinances to be completed by 12/14/89 with effective date of January 11, 1990.

## VII. NEW BUSINESS

A. Salary Deferral Plan for Employees of the District. - Consensus of Board is to have General Manager move forward with developing a salary deferral plan for employees of the District.

B. Set Date for Mid-year Budget Review. - Mid-year Budget Review Workshop is scheduled for Tuesday, January 16, 1990 at 1:30 p.m.

### C. Annual Election of District Officers

1. President - Director Applegate moved and duly seconded by Director Johns to nominate Tedferd Trager for President. Upon vote, motion carried unanimously. There being no further nominations Director Johns moved and duly seconded by Director Wallace that nominations be closed. Upon vote, motion carried unanimously. By unanimous vote Tedferd Trager will be duly seated as President effective January 1, 1990.

2. Vice President - Director Johns moved and duly seconded by Director Applegate to nominate Donald Wallace as Vice President. Upon vote, motion carried unanimously. There being no further nominations noted Director Johns moved and duly seconded by Director Applegate to close nominations. Upon vote, motion carried unanimously.



## Lake Shastina Community Services District

### CERTIFICATE OF POSTING

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MARY M. KROLAK, under penalty of perjury, certifies as follows:

That she is, and during all times herein mentioned was, the duly appointed and qualified Secretary of the Lake Shastina Community Services District, Siskiyou County, California:

That on the 12th day of December, 1989, she caused to be posted a full, true and correct copy of:

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Ordinance 1-89, adopting regulations with respect to disposition or personal property found or saved on property within Districts jurisdiction.

in the official office of the District, 15440 Juniper Peak Road, Weed, California located in the Lake Shastina Mutual Water Company construction yard.

Executed this 12th day of December, 1989.

  
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MARY M. KROLAK  
District Secretary