

## ORDINANCE NO. 2021-04

### AN ORDINANCE OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT ADDING REGULATION 68, LATENT POWERS TO ARTICLE VI: MISCELLANEOUS, OF THE MCSD RULES AND REGULATIONS

**WHEREAS**, the McKinleyville Community Services District recently discussed and appointed an ad-hoc sub committee to review the District's Latent Powers; and

**WHEREAS**, the Latent Powers Committee recommended, later approved by the full MCSD Board, to clarify existing and future Latent Powers of the District; and

**WHEREAS**, the District wishes to clarify their powers and authorities relating to the issue regarding services to those experiencing homelessness; and

**WHEREAS**, Government Code section 61100 does not specifically allow the ability of any Special District to provide homeless or other social services as a latent power; and

**WHEREAS**, the Local Agency Formation Commission (LAFCo) believe social services is a function of the County, not the purview of Community Services Districts; and

**WHEREAS**, the Latent Powers Committee agrees that the District does have the authority to lease property to third party entities who may wish to run social service programs for those experiencing homelessness; and

**WHEREAS**, the ability to rent or lease its property is in accordance with the District's general powers under section 61060; and

**WHEREAS**, the Latent Powers Committee recommended, later approved by the full MCSD Board, to prepare a policy statement consistent with District Rules and Regulations, Article IV, Regulation 45 Permits, Fees, and Deposits; and

**WHEREAS**, to create a section to hold all clarified latent powers, it is necessary to amend the Districts Rules and Regulations to include a new Regulation under Article VI: Miscellaneous for Latent Powers.

**NOW, THEREFORE**, the Board of Directors of the McKinleyville Community Services District ordains as follows:

Regulation 68, Latent Powers, is added to Article VI of the District's adopted Rules and Regulations to read as follows:

#### **REGULATION 68 – LATENT POWERS**

**Rule 68.01: INTRODUCTION** – This regulation will detail and clarify the Latent Powers of the District. The State of California Government Code, Title 6, Division 3, Part 3, Chapter 1, Section 61100, states "within its boundaries, a district may do any of the following:" and then lists in its subsections various latent powers. As detailed in the

2009 adopted Municipal Service Review (MSR) prepared by the Humboldt County Local Agency Formation Commission (LAFCo), the District currently provides the following services:

- Water,
- Wastewater,
- Parks and Recreation,
- Street Lighting,
- Open Space, and
- Stormwater Detention Basins.

**Rule 68.02: EXERCISING LATENT POWERS** – The process for activation of latent powers per the Cortese-Knox-Hertzber Act consists of the following steps:

1. Government Code Section 61106(a) If a Board of Directors desires to exercise a latent power, the district shall first receive the approval of the local agency formation commission, pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3.
2. Government code Section 61106(b) After receiving approval of the Local Agency Formation Commission, the Board of Directors may, by ordinance, order the exercise of that power.
3. Latent powers activation does not require an election unless sufficient written protest during the protest hearing process was received.
4. A certificate of completion should be recorded to certify the exercise of new and/or different functions.

**Rule 68.03: SERVICES FOR THOSE EXPERIENCING HOMELESSNESS** – The Board and Staff of McKinleyville CSD are sensitive to the impact homelessness has on our community. As a California Special District, McKinleyville community Services District has specific authorities. With that in mind, MCSD has no authority or funding to serve those experiencing homelessness in our community. To address unmet needs in McKinleyville, MCSD can offer facilities to third parties to serve those experiencing homelessness in the community. This includes, but is not limited to, Parks, buildings, and undeveloped property owned by MCSD. The process for accessing an agreement with MCSD can be found in Article IV, Regulation 45: Permits, Fees and Deposits, of the MCSD Rules and Regulations. Any third party interested in utilizing MCSD facilities for the care, support, or locating the homeless population will be required to apply for a permit consistent with these rules and regulations. Any request for these services will be reviewed on a case-by-case basis and will require action by the MCSD Board of Directors. A facility use agreement that lays out specifics, including cost and term, will be required, and must be approved by the Board in an open, public meeting.

This Ordinance shall take effect and be in full force and effective thirty (30) days after its passage.

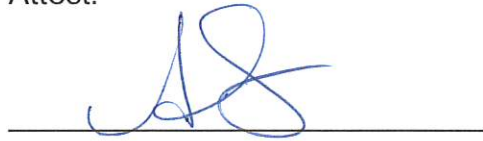
Introduced at a regular meeting of the Board of Directors held on March 3, 2021 and passed and adopted by the Board of Directors on April 7, 2021, upon the motion of Director Orsini and seconded by Director Clark-Peterson and by the following roll call vote:

AYES: Binder, Clark-Peterson, Couch, Orsini and Mayo  
NOES: None  
ABSTAIN: None  
ABSENT: None



Dennis Mayo, Board President

Attest:



April Sousa, CMC, Board Secretary