

# The Newberry CSD and “Commodities”

Prepared by: Jodi Howard, General Manager

Date: 06/22/2022

## Executive Summary

The Newberry Community Service District (CSD) and the group of volunteers commonly known as “Commodities” have worked together for decades to provide food to needy with the area of Newberry Springs.

Recently conflicts have arisen between the CSD General Manager (GM) and those representing themselves as responsible individuals and volunteers of “Commodities”. This document seeks to identify who the group known as “Commodities” is, the goods and identify the services the CSD is providing to “Commodities”, and recommendations going forward.

## “Commodities”, Who Are They?

A local group of volunteers who represent themselves as “Commodities” distributes USDA food to those who are qualified in the community. The CSD and “Commodities” have a long-standing relationship. The relationship has existed so long that it is not clear when the relationship was formed and what commitments were made and between whom.

At question is who is legally responsible for “Commodities” and the actions of their self-identified volunteers? To answer that question, the rental agreement was reviewed. The most recent rental agreement was signed by Ms. Virginia Padilla with a secondary name of “Fran” without a last name. “Fran” is in reference to Ms. Fran Rubel.

The GM texted Ms. Padilla on 06/12/2022 and requested the following documentation; the EIN number, the non-profit status, the legal name and a list of officers. Ms. Padilla replied that she believed that it should already be on file since Commodities has been here for years. She later texted it was through the County but she would check on it. To date Ms. Padilla has not provided the requested information.

The GM telephoned Ms. Padilla on 06/15/2022 to address concerns regarding the 3<sup>rd</sup> of July at the CSD. During the call the GM asked if Ms. Padilla had the information requested by the GM on 06/12/2022. Ms. Padilla referred the GM to Ms. Rubel and said Rubel would not return until the end of June. The GM ask Ms. Padilla was in charge and why Ms. Padilla did not have the information. Ms. Padilla explained she is “not in charge” and that she just “runs it”. This bring to question who is responsible and who can officially act on behalf of “Commodities”.

On 06/20/2022, the GM telephoned Ms. Rubel and left a voice message. Ms. Rubel telephoned the GM on 06/22/2022. During the conversation Ms. Rubel stated herself and Ms. Padilla were in charge. The

GM requested Ms. Rubel or Ms. Padilla be on the premises when they are using the building. Ms. Rubel replied they delegate other when they are not there.

## Services Provided by the CSD to Commodities

The CSD has traditionally provided the following services:

- Free use of and 24 hour access to the CSD building. (Facility Rental/Use agreement stipulates charges for rental and utilities)
  - Utilities (water and electric)
  - Heating and cooling
  - Tables and chairs
  - Kitchen area equipment
- Exclusive use of two CSD owned industrial freezers.
- 24/7 Electricity for “Commodities” owned chest freezer and the two CSD owned industrial freezers. Cost are estimated to exceed \$1200.00 per year.
- Exclusive use of CSD storage areas and exclusive cabinets.
- Exclusive use of CSD exterior storage for boxes.

## Additional Requested Goods and Services

The “Commodities” group has requested but was denied the following goods and services:

- Use of CSD owned vacuum (per agreement the renter is to provide)
- CSD to supply trash bags (per agreement the renter is to provide)
- Additional exclusive storage area use.
- Exclusive use of CSD front parking area during business hours and when “Commodities” is making deliveries.

## Legal and Compliance Concerns

The “Commodities” group distributes frozen and canned food. If clients make claims of illness, injury, or a loss surrounding the commodities received, what organization or individual would be responsible? If a client is injured on CSD grounds as a result of actions by “Commodities” agents or volunteers, what organization or individual would be responsible for the loss?

In the past the CSD has and is currently using CSD funds to provide exclusive storage facilities, freezers, and the electrical for the freezers. The CSD is responsible for the maintenance, repair, and replacement of the CSD freezers. The CSD also has and will have to defend against liability relating to any malfunction of the freezers. In the past, the “Commodities” group has demanded the CSD compensate “Commodities” for the loss of food during a power outage.

The “Commodities” group are storing suspected stolen shopping carts from various retailers on CSD property in violation of the State of California Business and Professions Code 22435. The GM has verbally requested the carts to be removed in the past. Per the rental General Rules point five, “No illegal or illicit activity is permitted on the NCSO property”. “Commodities” is in clear violation of the rule and is making the CSD complicit in the crime.

"Commodities" is not listed as the application on the rental agreement. Ms. Padilla is on the application with a reference to Ms. Rubel. Admittedly, Ms. Rubel and Ms. Padilla are "delegating" to others the use of the facility; this is known as assigning. Assigning the rental violates the agreement. Per the Facility Rental/Use Application under General Rules, "Applicant may not assign rental agreement to any other person(s) or entity."

## Recommendations to the Board

1. Update policies surrounding the long-term use of the facility by individuals and groups.
2. Update policies surrounding the rental cost and qualifications and requirements for groups requesting to use the facility at no cost or at a reduced cost.
3. Update policy to eliminate the provision of storage areas (dry, refrigerated, or frozen storage) to a group or an individual.
4. Update policy to prohibit the CSD from providing long term electricity (exceeding 5 days) at no cost to a group or individual.
5. Update policy to limit group or individual building access for deliveries or set up/teardown to 8am to 6pm daily providing the facility is not open for business, rented out, or scheduled to be used by another group. Provide language to allow the only the GM or a designee of the GM to allow access out of the defined times.
6. Update policy to require one of the responsible persons listed in the rental agreement to be on the premises when the facility is being used by the group or individual.
7. Update policy to reinforce the requirement of the renter to comply with direction provided by the GM or a designee of the GM to the renter relating to the use of the facility. The GM has authority to make decisions where policy is silent.
8. Update policy for issuance of keys, prohibit duplication, and require renter to provide and maintain a list of individuals who will be in possession of the keys. Add a requirement for a key deposit.
9. Suspend the use of the facility by the "Commodities" group until the questions and issues surrounding the use of the facility by the group are resolved.

## Conclusion

With the current arrangement between the CSD and the "Commodities" group, the CSD is exposed to compliance, criminal, and legal liability. The CSD needs clarity as to what organization or individual is responsible for actions or liabilities created by the "Commodities" groups in relation to the use of the facility. The CSD is providing storage space, equipment, and electricity to the "Commodities" group which are not afforded to any other groups. Consideration must be given as to the compliance and legalities relating to the use of CSD funds to supplement the activities of this group. The group is storing suspected stolen property at the CSD which needs to be removed and returned to the rightful owners' immediately.

The CSD GM recommends suspending the use of the facility by the "Commodities" group until all the forementioned issues and concerns are addressed and policy is approved and in place.

# Newberry Community Services District

## **POLICY HANDBOOK**

POLICY CSD Building and Facilities: Rules and Regulations Policy  
Number 7006

### GROUPS AND INDIVIDUALS USING CSD BUILDING AND FACILITIES:

1. **APPLICATION FORM** – CSD building and facility use is a privilege and not a right. No group or individual has an absolute, unconditional right to use the CSD building, grounds or other facilities. All groups and all individuals (in the case of a single individual applicant) will fill out and submit a Facilities Use Agreement (See Policy 7007) to apply for approval to use the building. Initial approval will be based on a) meeting all of the requirements stated herein as well as b) building availability that does not conflict with other building-use applicants. NOTE: For CSD policy regarding Park or Ballfield use please see Policy (xxxx).
2. **REPEATED OR PERIODIC FACILITIES USE** – A group or any individual that desires repeated, periodic use (for example, on a regular weekly or monthly basis) of the building or facilities may do so as long as they continue to comply with all of the requirements herein AND as long as there is no conflict with previously-scheduled building users.
3. **FAILURE TO COMPLY** – CSD policy is “Three strikes and you’re out.” Every building-use applicant (individual or

group) who fails to comply with all or with any of the building-use requirements specified herein will receive an **initial written warning** from the CSD General Manager (GM). Building users who fail to bring their building use into full compliance with this policy will receive a **second written warning**. Applicants who continue to fail to fully comply will receive a **third written letter** advising them that their permission to use the building and/or facilities is permanently terminated along with a termination date. The applicant will no longer be allowed to use the building.

4. **APPEALING TERMINATION** - Applicants whose building-use privileges have been terminated may, if they choose, appeal the termination within 30 days from the postmark date on the termination letter by submitting a written appeal request via U.S. certified mail addressed to "Newberry CSD, P.O. Box 206, Newberry Springs, CA. 92365". Sender is advised to request a certified mail "return receipt" to prove that the written appeal was, in fact, actually delivered to the CSD. The appeal request will be placed on the CSD Board agenda and considered at the next regularly-scheduled, public CSD Board meeting.
5. **INDIVIDUAL-USE RESPONSIBLE PARTY** – Every individual who applies for and who is granted permission to use the building or the facilities is deemed the "responsible party". This individual must assure that all CSD building-use rules contained herein are followed.
6. **GROUP-USE RESPONSIBLE PARTIES** - Every group that applies for and is granted permission to use the building must specify **one primary** "responsible party" and **one backup** "responsible party" on their building-use

application form. At least one of the “responsible parties” must be present at all times when the group is using the building. This individual must assure that all CSD building-use rules are followed. All interaction (questions, concerns, suggestions, etc.) between the group and the CSD General Manager are to take place through the group’s “responsible party”. Individual group members who have questions, concerns, comments or suggestions should direct their comments only to their group “responsible party” who will then communicate directly with the CSD GM. Any building individual user, group user or user-guest who harasses, intimidates, threatens, distracts or in any other way interferes with the work of any CSD Director, employee, volunteer, or contractor is in violation of this policy.

7. **HOURS AND CONDITIONS OF USE** – Hours of use are between 7 AM and 10 PM, unless otherwise stipulated within the building use agreement. Building users must comply with all County, State and Federal laws and regulations.
8. **DISRUPTIVE BEHAVIOR** - Building users must refrain from disruptive behavior while using CSD facilities. Individuals or groups who engage in disruptive behavior will be issued written warnings as described in Item #3 (above).
9. **RESPECTFUL COMMUNICATION** – Individual and group “responsible parties” as well as the CSD Directors, employees, volunteers and contractors are expected to engage in and to maintain timely, effective and respectful communication within their respective groups and between building users and CSD personnel. Failure to maintain timely, effective and respectful communication is

a violation of this Building Use policy. Further, online “badmouthing” of the CSD, the CSD GM, CSD employees or the CSD Board by “responsible parties” is a sign that timely, effective and respectful communication is not taking place.

**10. RELEASE OF LIABILITY** - Every individual building user and every group building user is required to sign a “Release of Liability” form. Building users agree to hold the CSD harmless for any possible death, disability, injury, damage or theft of their property that occurs or is alleged to have occurred while on CSD property. This release of liability also includes any injury or damage that may be due, in whole or in part, to any possible negligence on the part of the CSD or CSD employees.

**11. TENANT LEGAL LIABILITY INSURANCE** – Building users, both individual users and group users, who either use or require the movement of objects weighing 100 pounds or more on CSD premises or within the CSD building are required to obtain and to provide a copy to the CSD of their “Tenants Legal Liability Insurance Policy”. This policy needs to name the “Newberry Community Services District” as an “additional insured”. This policy protects the CSD from any potential building or facilities damage that may be caused either accidentally or intentionally by a building user. The policy also protects the individual and the group building user in the event that they or one of their members or guests causes 1) damage to the CSD building or premises or 2) personal injury to a building or premises occupant or guest.

**12. BUILDING, WALKWAY OR FACILITIES DAMAGE** – Building and facilities users 1) are responsible to report and to pay

for any damage that they or their guests cause and 2) are responsible to photograph any pre-existing damage that they observe and report that damage to the CSD GM. Failure to photograph and to report pre-existing damage may lead to the conclusion that the observing but non-reporting party is responsible for causing the damage.

**13. BUILDING CLEANUP** – Building user should leave the premises as clean, or cleaner, than they found it. The floors and the carpet should be clean and any spills should be cleaned up. Place large volumes of trash in the outside trash bin. “Responsible parties” should report any other cleaning needs, including rest room supply needs, to the CSD GM. When exiting, turn off all heaters, air conditioners and overhead lights. Lock the building.

**14. STORAGE AREA(S)** – On-site storage space is limited. When available, use of storage space is based on demonstrated need. While no building user has an exclusive or an uncontested right to use storage space, the CSD GM will coordinate the use and sharing of the available storage space between all building users on a first-come, first-serve basis. Use of storage space is not guaranteed. Storage space may be used only for on-site activities and may not be used for storing items used for any off-site activities. Building and facility usage patterns may change in the future therefore the assignment of available storage space is subject to change. All aisleways and common-access areas must remain clear, unblocked and unimpeded.

**15. USE OF AND ACCESS TO EXTERNAL STORAGE AREAS** – Heavy, wheeled items such as loaded pallets cannot be easily moved across or through areas of loose, rocky sand.



If the CSD approves the use of external (outside of the CSD building) storage areas for building user-groups who need to move heavy, wheeled items to and from external storage areas, the CSD will consider, wherever practical, the installation, at CSD expense, of wooden or concrete walkways to access those external storage areas.

16. **PARKING AREAS** – The employee parking, the handicapped parking and the 30-minute guest parking areas must remain clear both for employee access, handicapped access and for public short-term visitor use. Visitors, volunteers and their guests who need to park for more than 30 minutes should park at the South end (the Park end) of the CSD building or in the southernmost spaces along the front of the building to avoid blocking the marked employee, handicapped and 30-minute guest parking areas.
17. **LOADING AND UNLOADING ZONES** – To avoid blocking the employee parking area, the Fire Department door or the 30-minute parking areas, the loading and unloading of trucks and other large vehicles must be done at the South end (the South walkway) of the CSD building.
18. **SMOKING AREAS** – Smoking is defined as inhaling into the mouth or lungs the smoke or vapor from, or the possession of, a lighted pipe, lighted cigar, lighted cigarette, an activated electronic cigarette or other similar electronic device, whether or not such electronic device delivers nicotine, or any other lighted smoking equipment. Smoking includes, but is not limited to, smoking tobacco, marijuana, any other plant or plant derivative, and synthetic substances is prohibited within the CSD Community, in the covered seating area in front of the

building, or in any other area where “No Smoking” signs are posted. Smoking and vaping is allowed only in the parking areas and outside of the fence along the public street in front of the CSD building.

**19. KITCHEN USE** – The kitchen is available for use. The stove is currently not in service. Food may be heated using the microwave or with user-supplied food warmers or other user-supplied appliances plugged into the power outlets. Kitchen areas that are used, including the counter tops and the floor must be cleaned after use.

**20. REFRIGERATOR AND/OR FREEZER STORAGE SPACE** – Refrigerator and/or freezer space is limited. Additionally, refrigerator/freezer use consumes electricity which the CSD is billed for monthly. Storage of food in the CSD-owned refrigerator and freezer(s) is a privilege and not an absolute right. When available, the use of refrigerator/freezer storage space in CSD-owned units will be granted on a first-come, first-serve basis. CSD-owned units must be kept clean during use and left in a clean condition when use is complete. The placing of building user-owned (non-CSD owned) refrigerators or freezers will be granted on a first-come, first-served basis when appropriate floor space is available. Electricity usage of user-group owned refrigerators and freezers will be monitored and building users will be charged monthly as described in “Building Use Fees” (below).

**21. BUILDING USE FEES** – At this time, there is no fee to use the CSD building however electricity, water and propane use by regular building users may, at the CSD’s discretion, be monitored and measured. Building users who consume

a combined utility total of \$25 or more per month will be invoiced monthly for their utility use in excess of \$25. Building users who are more than 30 days in arrears in paying their utilities bill will be denied further building use until their payments have been brought current. Users who claim extreme "hardship" should make their case in writing by submitting a written explanation via U.S. certified mail addressed to "Newberry CSD, P.O. Box 206, Newberry Springs, CA. 92365". Senders are advised to request a certified mail "return receipt" to prove that their letter was, in fact, delivered to the CSD. The request will be placed on the next CSD Board agenda and considered at the next regularly-scheduled, public CSD Board meeting. This is necessary because it is the Board's responsibility to review and approve the spending of public funds.

22. **ALCOHOL USE** - The serving or use of alcohol on CSD premises is normally prohibited. Private-party users of the facilities (for example, for a birthday party) who desire to serve alcohol should refer to CSD Policy xxxx for the detailed requirements.
23. **ILLEGAL DRUG USE** – **Illegal** drug use on CSD premises is prohibited.
24. **POSSESSION OF FIREARMS** – No renter, guest, or volunteer may carry a firearm inside the CSD building unless they are permitted to do so by Federal or State Law.
25. **BUILDING ACCESS** – Building access is via key entry at the southern door. "Responsible parties" will be issued a numbered key and must retain this key and not loan it to any other person. Do not lose or duplicate this key. Users who lose a key will be charged for the cost of re-keying

(new lock and new keys) the building. “Responsible parties” will unlock the building door and lock the building door at the beginning and end of each period of use.

**26. CHANGES TO THIS POLICY** – The CSD Board may, via Board action, at any public Board meeting, revise or update this policy at any time. Changes to this policy become effective on the day following Board approval. Policy changes will apply to both existing and future building use agreements therefore it is advisable that existing building users keep themselves aware of possible future changes. Board meetings, Board meeting agendas and proposed building-use policy changes are all announced in advance (before approval) on the CSD website.

1. ~~Are responsible for the care of the building, facilities and contents;~~
2. ~~Must leave it clean and in orderly condition after use;~~
3. ~~Must not use it for any unlawful purpose;~~
4. ~~Are not permitted the consumption or sale of alcoholic beverages On the premises;~~
5. ~~Are responsible for the appropriate police protection at functions requiring the same;~~
6. ~~Should use fire retardant (type) decorations only. Should not hang combustibles around light fixtures. Should remove all decorations from the building after use, unless are going to be used by another group previous arrangements;~~
7. ~~Newberry Community Services District will not be liable or responsible for the actions of any person or group using the premises, nor responsible for articles left on the premises;~~
8. ~~For insurance purposes, building users must provide the following: (a) Must sign and complete the "Release of Liability" form and provide a copy for the CSD office before use. The release must be provided yearly at each change of officers.~~
  - (b) ~~Organizations using the building on a regular basis must provide a list of officers and their phone numbers each year.~~
  - (c) ~~Are to clean the building upon completion of their use of said building and should leave it as clean and neat as it was upon entering. All clubs, groups and organizations must:~~
    - (1) ~~Mop the vinyl floors.~~
    - (2) ~~Vacuum the carpet.~~
    - (3) ~~Wipe up carpet spills when made.~~
    - (4) ~~Check the restrooms to make certain they are in clean and orderly condition.~~
    - (5) ~~Take trash and or garbage out of the building to the trash bins,~~
    - (6) ~~Return all tables and chairs to their proper places (four tables are to remain up in the hall with chairs in place),~~
    - (7) ~~Turn off all heaters, coolers and lights.~~
    - (8) ~~Lock the Building~~

Approved: ~~\_\_\_\_\_~~ May 23, 1995



PCI

Quote #133

AWAITING RESPONSE

**JODI HOWARD**

30884 Newberry Road / Newberry Springs, California  
92365  
951-515-5659

Sent on  
Jun 23, 2022

**WORK TO BE PERFORMED**

REMOVE EXISTING EVAPORATOR COOLER

DISCONNECT FORM WALL PENATRATION

DISCONNECT POWER AND WATER

INSTALL NEW EVAPORATOR COOLER

CONNECT TO EXISTING POWER AND WATER SUPPLY

EXISTING WALL OPENING

QTY.	TOTAL
1	\$3,525.00

**WORK TO PERFORMED**

REPLACEMENT OF ROOF TOP UNIT

QTY.	TOTAL
1	\$5,235.00

**WORK TO BE PERFORMED**

PREVENTIVE MAINTANENCE - PER UNIT ( \$296.00 )

PLUS COST OF FILTER MEDIA

EVERY 3 MONTHS

QTY.	TOTAL
2	\$592.00

This quote is valid for the next 14 days, after which values may be subject to change.

**Contact PCI**

13450 CROCKER COURT , FONTANA, CA 92335  
(909)223-4685 eileen@permonci.com

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Clemmer Services Inc  
 200 N Second Ave.  
 Barstow, CA 92311

Phone: (760) 256-7058  
 Fax: (760) 256-2719  
 dispatcher@clemmerservicesinc.com  
 Clemmerservicesinc.com

Bill to  
**Newberry Community Servic**  
 30884 Newberry Road  
 Newberry Springs, CA 92365

Ship to  
**Newberry Community Servic**  
 30884 Newberry Road  
 Newberry Springs, CA 92365

Quote #: q3517

Item	Description	Quantity	Price	Amount
desc	<p>Proposal includes replacing (2) Mastercool style coolers with (2) new Pro Series 6800 Side Draft models and (1) standard cooler on the building with a basic standard Frigiking model side draft cooler. Includes units, crane lift for roof mounts, electrical connections, water lines redone with new copper, and all other labor and materials needed to complete the installation.</p> <p>Price includes all (3) replacements along with necessary crane lift and all labor + tax included.</p>	1	\$10,782.00	\$10,782.00

Payments: \$0.00      Subtotal: \$10,782.00      Balance Due: \$0.00