

AN ORDINANCE CLARIFYING DISTRICT POLICY RE:  
SEWER AND WATER CONNECTION FEE DEPOSITS AND  
WILL SERVE LETTERS

WHEREAS, San Simeon Acres Community Services District ("District") currently has in place a moratorium on new sewer or water connections pursuant to Ordinance Nos. 61, 62 and 63; and

WHEREAS, some property owners within the District have deposited money with the District to be applied toward sewer and water connection permits; and

WHEREAS, existing District policy provides that money deposited for sewer and water connections is non-refundable; and

WHEREAS, the District Board recognizes that it would be inequitable to continue to hold such deposits as non-refundable during the pendency of its moratorium; and

WHEREAS, certain property owner(s) may have paid all connection fees, received will serve letters from representatives of the District, obtained all necessary permits from other public agencies to allow construction of the projects (including, but not limited to, use permits, grading permits, coastal permits and building permits), and commenced substantial on-site construction; and

WHEREAS, the District Board finds that it is necessary to clarify the District's policy on water and sewer service deposits and will serve letters.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE SAN SIMEON ACRES COMMUNITY SERVICES DISTRICT AS FOLLOWS:

SECTION 1. Except as provided in Section 3, sewer or water connection fees previously deposited with the District for properties which, on the effective date of this Ordinance, had not been connected to the District's system shall

be refundable upon written request. If a request for refund is made, the District's Board of Directors shall determine if the request qualifies for refund under this Ordinance and, if it so determines, order that the full amount of the deposit be promptly refunded. Prior to refunding the deposit, the party requesting the refund shall provide evidence of authorization by the party depositing the fees and the current property owner for refund of the deposit to the party requesting the refund. Upon refund of such deposit, the property for which the refund is made shall have no priority for future sewer or water service and will have to comply with all District regulations in effect at the time of any future request for service.

**SECTION 2.** Except as provided in Section 3, any property owner with previously deposited sewer and water connection fees who does not request a refund of fees shall be placed on a waiting list for sewer and water service, with priority for service based upon the date of original deposit of connection fees. After the effective date of this ordinance, any property owner may deposit the then current connection fees and be placed on the District's waiting list for service. Except as provided in Section 4 of this Ordinance, future service will be contingent upon lifting of the District's current connection moratorium ordinance, payment of the full amount of connection fees in effect at the time of connection (with a credit for fees previously deposited) and compliance with all other District regulations then in effect. Payment of the deposit or placement on such District waiting list shall in no way be construed as a commitment or binding obligation on the District to provide service.

SECTION 3. Sections 1 and 2 of this Ordinance providing for refund or credit for connection fees shall be inapplicable to any property owner and/or any party who has previously deposited sewer and/or water connection fees pursuant to a written agreement which, by the terms of such agreement, provided that such fees were non-refundable under specified conditions which conditions have subsequently been met. "Written Agreement," as used in this section, does not include a document unexecuted by the District.

SECTION 4. Any property owner within the District who demonstrates a vested right to sewer and water service, as defined in this section, may make application to the District's Board of Directors for exemption from the provisions of the District's current moratorium ordinance established pursuant to Ordinance No. 61 and continued in effect by Ordinance No. 63. A property owner with a "vested right" to water and sewer services, as used in this section, shall be one whom the Board of Directors finds has done all of the following as of the effective date of this Ordinance:

a. Obtained paid receipts from the District for deposit of the full amount of current District sewer and water connection fees;

b. Obtained a "will serve letter" from the District signed by the District's Board President or other authorized representative of the District;

c. Obtained all permits from other government agencies necessary for construction of the project for which sewer and water connection fees have been deposited, including, but not limited to, final building permit and coastal development permit; and

d. Has completed substantial on-site physical construction of the project.

Application for vested rights exemption may be made in writing submitted to the District within ninety (90) days of the effective date of this Ordinance. The Board of Directors shall consider the application and evidence presented and determine whether the criteria for vested rights exemption specified in this Ordinance have been met and shall make written findings supporting its decision. If the Board grants a vested right exemption pursuant to this section, the applicant shall be provided water and sewer service subject to such terms and conditions as are established by the District's Board of Directors.

SECTION 5. Any previously issued "will serve letter" for water and/or sewer service issued by District or District personnel shall be subject to the provisions of this Ordinance and shall have no further force and effect unless all of the other requirements for a vested rights exemption specified in Section 4 had been met on the effective date of this Ordinance.

SECTION 6 - SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this Ordinance. The Board of Directors of the San Simeon Acres Community Services District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 7 - EFFECTIVE DATE OF ORDINANCE. This Ordinance shall become effective and be in full force and effect


immediately upon passage. Within fifteen (15) days of passage, this Ordinance shall be published at least once in a newspaper of general circulation in the County of San Luis Obispo.

INTRODUCED and ADOPTED at a regular meeting of the Board of Directors of the San Simeon Acres Community Services District held on the 10th day of February, 1988, and on the following roll call vote, to-wit:

AYES: Chairman Beal, Directors Hoffman, Price, Boniface and Blankenship

NOES: None.

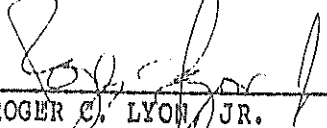
ABSENT: None.

  
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Chairman, Board of Directors

ATTEST:

  
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Secretary, Board of Directors

APPROVED AS TO FORM:

  
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ROGER E. LYON, JR.  
District Counsel