

**SANTA YNEZ  
COMMUNITY SERVICES DISTRICT  
STAFF REPORT**

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TO: BOARD OF DIRECTORS

PREPARED BY: Jeff Hodge, General Manager

FOR: REGULAR BOARD MEETING

DATE: April 18, 2018

ITEM: Consider change to the installment payment plan policy to include vacant lots.

**SUMMARY:** The District received a request for the installment payment plan agreement for sewer connection for new construction on a vacant lot. This property is located within the original formation of the District and the line has been in place since the 80's. A lateral was installed with the original line. The current policy only applies to properties with septic tanks.

**RECOMMENDATION:** Change the policy to include existing vacant lots within the District's current annexed area.

**ATTACHMENTS:**  
Resolution 17-01 Installment payment plan policy.

**RESOLUTION NO. 17-01**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA YNEZ  
COMMUNITY SERVICES DISTRICT REPEALING RESOLUTION NO. 15-03  
AND ADOPTING REVISED INSTALLMENT PAYMENT POLICY FOR  
CAPACITY FEES AND RELATED COSTS**

**WHEREAS**, as permitted by Health and Safety Code Sections 5463 et seq., on May 20, 2015, the Board of Directors of the Santa Ynez Community Services District (“District”) adopted Resolution No. 15-03 to establish a policy for approving installment payment plans (“Installment Plans”) for connection fees (now referred to as “capacity fees”) and related costs for new connections to the District’s public sewer system.

**WHEREAS**, on May 5, 2016, the Santa Barbara Local Agency Formation Commission (“LAFCO”) approved the annexation of the West Santa Ynez area to the District (“West Santa Ynez Annexation”). On September 1, 2016, LAFCO ordered that the West Santa Ynez Annexation be completed without an election.

**WHEREAS**, the Board of Directors of the District desires to repeal Resolution No. 15-03 and adopt a revised policy for approving Installment Plans that includes costs that may be incurred by owners of parcels located within the area of the West Santa Ynez Annexation when such parcels are connected to the District’s public sewer system.

**NOW, THEREFORE**, the Board of Directors of the Santa Ynez Community Services District does hereby resolve as follows:

1. **Eligible Parcels**. Only parcels that meet all of the following requirements as of the date of the adoption of the Approval Resolution (as defined in Section 5) shall be eligible to participate in an Installment Plan (“Eligible Parcels”):

(a) The Eligible Parcel is improved with one or more existing buildings that (i) have kitchen, bathroom or other facilities that produce sewage, and (ii) are connected to a septic system or other on-site private sewage disposal system (“Existing Buildings”). Installment Plans shall apply only to Existing Buildings.

(b) The Eligible Parcel is located within the District’s jurisdictional boundaries.

(c) An existing main sewer line connecting to the District’s public sewer system is located adjacent to, or is otherwise available to serve the Eligible Parcel, or the owner of the Eligible Parcel has entered into an Agreement with the District

pursuant to which the owner has agreed to (i) construct, at the owner's expense, a main sewer line extension to serve the Eligible Parcel, and (ii) grant said extension to the District as part of its public sewer system.

2. **Eligible Costs.** The following costs are eligible to be covered under an Installment Plan (collectively, "Eligible Costs"):

(a) Constructing a side sewer, which includes (i) the building sewer beginning at the plumbing or drainage outlet of an Existing Building and running to the property line, and (ii) the lateral sewer within the public street connecting the building sewer to the District's public sewer system. Regardless of who is responsible for the construction of the side sewer, the side sewer shall be owned by the owner of the Eligible Parcel and such owner shall be responsible for the maintenance, repair and replacement thereof.

(b) Necessary plumbing to connect an Existing Building to the District's public sewer system.

(c) Converting an onsite septic system or other on-site private sewage disposal system and connecting the Eligible Buildings to the District's public sewer system, including, but not limited to, pipes, pumps, and other equipment, and septic system abandonment.

(d) Capacity fees, as set forth in District Ordinance No. O-16-04, or as set forth in any Ordinance of the District amending or replacing said Ordinance No. O-16-04.

(e) Miscellaneous charges consisting of permit and inspection charges, new construction lateral fees, and plan check fees imposed by the District pursuant to Section 808 of the District's Sewer Service Code.

(f) Project 1 or Project 2 fees, if applicable, to cover the Eligible Parcel's share of prior District collection system expansion projects.

(g) The time of District staff and legal counsel associated with the preparation of the Owner Agreement (as defined in Section 4), the preparation and adoption of the Approval Resolution, and the preparation and recording of the Lien Certificate (as defined in Section 6),

(h) Noticing, publication, and recording costs.

(i) Annexation administration charges imposed by the District pursuant to Section 805 of the District's Sewer Service Code to cover an Eligible Parcel's equitable, prorata share of (i) engineering, legal, and publication costs, (ii) costs of preparing and examining maps, legal descriptions, and other documents, and (iii) other expenses incurred by the District in connection with an annexation application, where the payment of such annexation administration charges was deferred by the District at the time of annexation.

(j) Additional capacity charges imposed by the District pursuant to Section 807 of the District's Sewer Service Code to cover an Eligible Parcel's equitable, prorata share of the cost of sewer main line extensions that have been constructed by the District or by other property owners and that are necessary to serve the Eligible Parcel.

Costs of constructing a side sewer pursuant to Section 2(a), constructing necessary plumbing pursuant to Section 2(b), converting and abandoning an onsite septic system or other on-site private sewage disposal system and connecting Eligible Buildings to the District's public sewer system pursuant to Section 2(c), and constructing sewer main line extensions pursuant to Section 2(j) shall not be included in Eligible Costs if the owner of the Eligible Parcel that is served by such facilities has elected to retain and pay the contractor to perform the work.

Where the District has retained and paid the contractor to construct a side sewer, construct necessary plumbing, or convert and abandon an onsite septic system or other on-site private sewage disposal system, the District shall assign to the owner of the Eligible Parcel any warranties relating to such work.

3. **Terms for Installment Payments.** Unless other terms are approved by the District's Board of Directors at the time it adopts the Approval Resolution, the terms for the repayment of Eligible Costs shall be as follows:

(a) The term for repayment shall be twenty (20) years ("Repayment Term").

(b) Interest shall accrue on the Eligible Costs at one (1) percentage point above the prime rate of interest, as published by the Wall Street Journal, which is in effect one (1) month prior to the adoption of the Approval Resolution. In no event shall the interest rate exceed twelve percent (12%) per annum.

(c) The principal amount of the Eligible Costs and interest thereon shall be fully amortized over the Repayment Term, with equal installments of principal

and interest being due and payable two (2) times per year at the time the property tax bills for the Eligible Parcel are due (the "Installment Payments").

(d) The Installment Payments shall be included on the tax bills for the Eligible Parcel and shall constitute a lien against the Eligible Parcel. All laws applicable to the levy, collection and enforcement of taxes, including penalties and interest, shall be applicable to the Installment Payments.

(e) Any Installment Payment which is not paid when due shall be subject to (i) a basic penalty of ten percent (10%) for nonpayment of the Installment Payment, and (ii) a penalty of one and one-half percent (1½%) per month for nonpayment of the Installment Payment and basic penalty.

4. **Owner Agreement.** Prior to consideration of or action on the Approval Resolution by the District's Board of Directors, the owner of the Eligible Parcel shall enter into an agreement with the District (the "Owner Agreement") providing as follows:

(a) The owner consents to and waives the right to protest or object to (i) the imposition of a lien against the Eligible Parcel to secure the Installment Payments, (ii) the collection of the Installment Payments on the tax roll, and (iii) the recording of the Lien Certificate; and

(b) In the event the owner does not connect the Existing Buildings on the Eligible Parcel to the District's public sewer system within one (1) year after the adoption of the Approval Resolution, the owner agrees to immediately reimburse the District for all costs referenced in Sections 2(a), (b), (c), (g) and (h).

5. **Approval Procedures.** The approval of an Installment Plan for an Eligible Parcel shall require the adoption of a resolution by a two-thirds (2/3) vote of the District's Board of Directors ("Approval Resolution"). The Approval Resolution shall fix the amount of the Eligible Costs that are subject to the Installment Plan and set forth the terms applicable to repayment, which terms shall be consistent with Section 3 hereof, unless otherwise determined by the Board. In order to make the principal amount of the Eligible Costs and interest thereon a lien against the Eligible Parcel, the District shall follow the following procedures:

(a) The District shall give notice to the owner(s) of the Eligible Parcel setting forth all of the following:

(i) The principal amount of the Eligible Costs, the total interest that will accrue thereon, and the amount of the Installment Payments.

(ii) A description of the Eligible Parcel.

(iii) The times at which the Installment Payments will become due.

(iv) The number of Installment Payments.

(v) The rate of interest to be charged on the Eligible Costs.

(vi) That the charges and interest will constitute a lien against the Eligible Parcel.

(vii) The time and place of the hearing at which persons may appear and present objections to the imposition of the Eligible Costs and interest as a lien against the Eligible Parcel.

(b) The notice must be published once a week for three successive weeks in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates.

(c) At least ten (10) days prior to the hearing, written notice of the hearing must be mailed to the owner(s) of the Eligible Parcel.

(d) At the hearing the Board shall hear and consider all objections or protests, if any, to the Eligible Costs and interest thereon.

(e) Upon the conclusion of the hearing, the Board may (i) adopt, revise, change, reduce or modify the Eligible Costs and interest thereon, (ii) overrule any or all objections, (iii) make its final determination, and (iv) adopt the Approval Resolution by no less than a two-thirds (2/3) vote.

(f) On or before the tenth day of August of each year following the adoption of the Approval Resolution and continuing for the Repayment Term, the Board shall certify to the County auditor the amount of the Installment Payments to be entered against the Eligible Parcel on the assessment roll.

(g) The County auditor shall enter the amount of the Installment Payments on the current assessment roll and (except as provided in Section 5.(h) below), the amount of the Installment Payments shall constitute a lien against the Eligible Parcel as of noon on the first Monday in March immediately preceding the date of entry.

(h) The County tax collector shall include the amount of the Installments Payments on the tax bills for the Eligible Parcel. Thereafter, all laws applicable to the levy, collection and enforcement of taxes, including penalties and interest, shall be applicable to the Installments Payments. However, if the Eligible Parcel has been transferred to a bona fide purchaser for value or a lien of a bona fide encumbrancer for value has been created and attaches to the Eligible Parcel during the year prior to the date on which the first Installment Payment appears on the assessment roll, then the lien which would otherwise be imposed shall not attach to the Eligible Parcel and the Installment Payments will be transferred to the unsecured roll for collection.

6. **Recording of Lien.** Pursuant to Health & Safety Code Section 5474.6(b), the principal amount of the Eligible Costs and interest thereon shall be secured by recording a lien certificate (the "Lien Certificate") with the Santa Barbara County Recorder immediately following the adoption of the Approval Resolution by the District's Board of Directors. From the time of recordation of the Lien Certificate, the amount required to be paid, together with interest and penalties, constitutes a lien upon all real property in Santa Barbara County that is owned by the owner(s) of the Eligible Parcel or afterwards, and before the lien expires, acquired by such owner(s). The lien shall have the force, priority, and effect of a judgment lien and shall continue for ten (10) years. The lien may be extended for successive 10 year periods. The District's lien rights pursuant to this Section 6 and Health & Safety Code Section 5474.6(b) shall not be impaired by a transfer to a bona fide purchaser for value or a lien of a bona fide encumbrancer for value as referenced in Section 5(h) above.

7. **No Rights Conferred.** The District's Board of Directors may approve or disapprove a proposed Installment Plan for an Eligible Parcel in its sole and absolute discretion and shall be under no obligation to adopt an Approval Resolution for any Eligible Parcel, even where the Eligible Parcel satisfies all of the requirements hereunder for participation in an Installment Plan. This Resolution does not confer any rights upon any property owner or other person.

8. **Exceptions.** Exceptions to the foregoing policy and the requirements and procedures set forth herein may be made on a case-by-case basis in the sole and absolute

discretion of the District's Board of Directors to address special circumstances, or to avoid undue hardship or unjust or inequitable results.

**9. Repeal of Resolution No. 15-03.** Resolution No. 15-03 is repealed in its entirety and is replaced by this Resolution.

**PASSED AND ADOPTED** this 15th day of March, 2017, by the following vote of the Board of Directors of the Santa Ynez Community Services District:

**AYES:** Higgins, Maler, Mueller, Seymour

**NOES:** Jones

**ABSENT:**

**ABSTAIN:**

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David M. Seymour,  
President of the Board of Directors

**ATTEST:**

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Wendy Berry,  
Secretary of the Board of Directors