

ORDINANCE 108

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT AMENDING ORDINANCE 101 ESTABLISHING WATER AND SEWER SERVICE ALLOCATION TRANSFER REQUIREMENTS

Whereas, the San Simeon community services District (hereinafter referred to as "District") may provide for the allocation of water and sewer service among the various parcels of real property within the service territory of the District and among the various uses, both existing and proposed, on such parcels; and

Whereas, the District is desirous of promoting the most efficient use of water by promoting water conservation; and

Whereas, retrofitting of plumbing fixtures in existing buildings within the District promotes water conservation; and

Whereas, construction of new buildings that incorporates new water saving technology promotes water conservation; and

Whereas, permitting transfers of existing water and sewer allocations is an effective and desirable way of promoting water conservation by requiring installation of water saving plumbing fixtures at both the parcel from which water and sewer allocations are transferred and the parcel to which water and sewer allocations are transferred; and

Whereas, the District's Board of Directors on November 22, 2005 took testimony from the public and reviewed and evaluated the merits of permitting the transfer of water and sewer allocations within the District and rules and regulations and passed and adopted Ordinance 101; and,

Whereas, the District's Board of Directors on May 12, 2010 took testimony from the public and reviewed and evaluated the merits of permitting the transfer of water and sewer allocations within the District and rules and regulations.

NOW THEREFORE, the District Board of Directors amends Ordinance 101 to read as follows:

Section 1. Definitions. The following definitions shall be used for the following terms used in this Ordinance:

- a. "Equivalent Dwelling Unit". The Chart of Equivalent Dwelling Units in Exhibit "A" determines the number of EDUs (or fraction thereof) attributable to a particular use on a parcel.
- b. "Existing Commitments" means service commitments made to specific parcels, including active service commitments, non-active service commitments and waiting list commitments. The lists of existing non-active service commitments attached at Exhibit "B" sets forth the inventory of non-active service commitments as of the effective date of this Ordinance.

c. "General Manager" means the General Manager of the District or the General Manager's designee.

d. "Parcel" means real property within the boundaries of the District which the County of San Luis Obispo recognizes as a separate parcel for purposes of real property taxes and assessments and which qualifies under County of San Luis Obispo Ordinances as a separate building parcel.

e. "Waiting List" means the list established by the District setting forth water and sewer allocations on parcels that are not active service or non-active service commitments.

Section 2. EDU As a Basis For Allocation. EDUs shall be used as the basis for allocation of water and sewer connections by the District. The Chart of Equivalent Dwelling Units at Exhibit "A" shall be used when calculating the EDUs required for individual land uses. When a land use does not fit any of the categories set forth in the Chart of Equivalent Dwelling Units, the General Manager shall compute the required EDUs for the land use on the basis of estimated water use.

Section 3. Existing commitments. The following categories of existing commitments are established:

a. Active Service Commitments. Active service commitments consist of parcels for which active water service is provided. Active Service commitments are those with current billing for service for potable water. Active service commitments are categorized as residential and commercial.

b. Non-active Service Commitments. Non-active service commitments consist of those parcels listed on the attached Exhibit "B" that the District has determined have pre-existing commitments for water service, but which do not use all of the EDUs allocated to the parcel.

c. Waiting List Commitments. Waiting list commitments consist of those parcels listed on the District's water and sewer service waiting list. A copy of the water and sewer waiting list is attached as Exhibit "C".

d. Updating Non-Active Service Commitments. The non-active service commitment list attached as Exhibit "B" may be supplemented in the future under the following circumstances:

1. District Property. The district Board of Directors may assign EDUs to District owned property as the Board deems reasonable and proper to a maximum of three (3) EDUs in any one year.

2. All Other Property. A property owner may petition the District in writing to have all or a portion of the existing EDUs allocated to a parcel listed as a non-active service commitment. The General Manager shall determine if there is evidence to support the fact that a valid connection to the water system had existed, or that the District had otherwise authorized water service, and that plumbing fixtures representing all or a portion of the EDUs of water allocated to the parcel have been disconnected and removed. The General Manager shall make a recommendation to the District Board of Directors based on the evidence

and the Board of Directors shall approve, approve with conditions, or deny in whole or in part, the petition.

Section 4. Transfers Of Positions To Another Parcel. Owners of parcels with existing commitments may transfer all or a portion of the EDUs represented by such existing commitments to another parcel or parcels within the boundaries of the District. The transfers of EDUs shall satisfy the following requirements:

a. Active Service Commitments. All plumbing fixtures associated with active service commitment EDUs to be transferred to another parcel shall be disconnected and removed. Prior to the effective date of the transfer, the General Manager shall inspect the transferring parcel to verify that the plumbing fixtures associated with the transferring EDUs have been disconnected and removed. All existing plumbing fixtures on the parcels to which active service commitment EDUs will be transferred shall meet the water conservation requirements of the District. In the event all or any portion of such plumbing fixtures do not meet the water conservation requirements of the District, such plumbing fixtures shall be replaced with fixtures that meet the water conservation requirements of the District prior to the effective date of the transfer. All new plumbing fixtures to be installed at the parcel to which the EDUs will be transferred that will utilize such EDUs shall also meet the water conservation requirements of the District. Prior to the effective date of the transfer, the General Manager shall verify that all existing and new plumbing fixtures at the parcel to which the EDUs have been transferred meet the water conservation requirements of the District.

b. Non-Active Service Commitments. All existing plumbing fixtures, if any, on the parcel or parcels to which EDUs associated with non-active service commitments will be transferred that do not meet the water conservation requirements of the District shall be replaced with plumbing fixtures that meet such requirements. The General Manger shall verify that all such plumbing fixtures have been replaced prior to the effective date of the transfer.

c. Waiting List Commitments. All existing plumbing fixtures, if any, on the parcel to which EDUs associated with a water wait list commitment will be transferred that do not meet the water conservation requirements of the District shall be replaced with plumbing fixtures that meet such requirements. The General Manger shall verify that all such plumbing fixtures have been replaced prior to the effective date of the transfer.

d. Effective Date Of Transfer. The effective date of a transfer of EDUs from one parcel to another shall be the date that all requirements of the Section of the Ordinance have been satisfied.

Section 5. Transfer of EDUs Within a Parcel. Owners of parcels with active service commitments or non-active service commitments may transfer EDUs or plumbing fixture or set of plumbing fixtures to a new plumbing fixture or set of plumbing fixtures at another location within the parcel. Prior to any such transfer, the Owner of such parcel shall notify the District in writing. Prior to connection of the fixture(s) related to the EDUs being transferred, the General Manger shall inspect the parcel to verify that there will be no net increase in EDUs and that the new plumbing fixtures related to the EDUs being transferred meet the water conservation requirements of the District.

Section 6. Will Serve Letters. For the transfer of water pursuant to Section 4 or 5, the property owner must request and receive from the General Manager a Will Serve letter indicating the EDU quantity of water that shall be provided by the District to benefit a specific site subject to availability and the then rules, regulations, and fees applicable at the time of service.


Section 7. Establishment of Fees. The District Board of Directors shall establish fees from time to time that enable the District to recover any costs of the District associated with implementation and enforcement of this Ordinance.


Section 8. Publication. Within fifteen (15) days of passage, this Ordinance shall be published one time in a newspaper of general circulation published in the District, if there is one, and if not, then this Ordinance shall be posted for one week in three (3) public places in the District.

On motion of Director Ricci, Seconded by Director Russell, and on the following roll call vote to wit:

Chairperson Lambeth Y Vice-Chair Russell Y Director Ricci Y
Director Fields Y Director Price Y

Ordinance No.108 is hereby adopted this 12th day of May, 2010.

ATTEST:

Terry Lambeth
President, Board of Directors

ATTEST:

Charles Grace
General Manager/
District Secretary

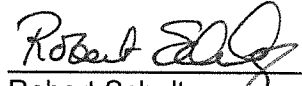
APPROVED AS TO FORM

Robert Schultz
District Counsel

EXHIBIT "A"

CHART OF EQUIVALENT DWELLING UNITS

<u>Land Use</u>	<u>Equivalent Dwelling Units</u>
Motels (per unit)	.7
Motels (managers apartment)	1.0
Restaurant	1.0/184 sq. ft. of total area
Service Stations	2.3/2 restrooms
Residence (single family, Condominium and mobile home)	1.0
Retail Shops	.4/950 sq. ft.
Public Restrooms	.9/restroom
Commercial Laundries	.4/washing machine
Irrigation	.5/meter
CDF Approved Fire Protection/Sprinkler Systems	0

EXHIBIT "B"

NON-ACTIVE SERVICE COMMITMENTS

Priority	Name	Description
1	Kent Mitchell Parcel# 013-091-073	Service Stations 2.3/2 restrooms

EXHIBIT "C"

HOOK UP WAITING LIST

Priority	Name	Deposits Paid	Date	Description
1	¹ Cavalier Inn Inc. APN#	² \$0.00	³ 01/25/1972	145 Motel 2400 sq ft restaurant
2	Evans APN# 013-071-018	\$425	11/16/1975	Retail
3	Mouchawar APN# 013-391-001	\$30,445	06/01/1979	35 Motel 1 Apartment 2000 sq ft Restaurant
4	Long APN# 013-031-022	\$1,200	10/29/1985	1 Residence
5	Hurlbert for The Tides of San Simeon APN# 013-402-012	\$2,280	09/06/1990	6 Condos 1 Irrigation
6	Ramirez APN# 013-402-013	\$2,280	03/09/2001	6 Condos
7	Redwood APN# 013-402-006	\$6,840	10/15/1990	3 Residences

¹ Cavalier Inn Inc. acquired the rights and obligations of Dalton through bankruptcy proceedings in July 1989.

² The deposit of Dalton was forfeited when he failed to comply with the Terms of Agreement with the District.

³ The Date of the agreement between the District and Dalton.

⁴ Per agreement, remaining balance of project after Mouchawar foreclosure on 105 units