ORDINANCE NO. 3209

ORDINANCE ESTABLISHING A MANDATORY SEWER CONNECTION REQUIREMENT AND SEWER SERVICE CHARGES FOR THE LOS OSOS WASTEWATER PROJECT

WHEREAS, pursuant to Government Code section 25825.5, the County of San Luis Obispo has been empowered to design, construct, and operate a wastewater collection and treatment project within the community of Los Osos, California; and

WHEREAS, in conjunction with those powers, the County is in the process of planning for the construction of a wastewater collection and treatment system that would serve certain territory within the community of Los Osos, California; and

WHEREAS, in order to provide wastewater collection and treatment services, the County desires to establish a sewer service charge to pay for the costs of providing wastewater collection and treatment services; and

WHEREAS, the County is authorized by Government Code section 25825.5 to impose and collect service charges to cover the costs of providing wastewater collection and treatment services; and

WHEREAS, the County commissioned an analysis of the costs of providing such services and the service charges necessary to pay for those costs; and

WHEREAS, in accordance with the requirements of Article XIII D of the California Constitution, the County provided notice to the identified property owners, held a public hearing, and at the conclusion of the public hearing it was determined that a majority protest did not exist.

The Board of Supervisors of the County of San Luis Obispo, State of California, does ordain as follows:

SECTION 1: Service Area Established. The area to which this ordinance applies ("the Service Area") is those lands shown in the San Luis Obispo County Wastewater Assessment District No. 1 as recorded in the official records of the San Luis Obispo County Clerk-Recorder's Office, on February 27, 2008, which area is a portion of, and entirely within, the County of San Luis Obispo and is within the territory in which the County is authorized to exercise the powers conferred on it by Government Code section 25825.5.

SECTION 2: Use of Public Sewers Required. Within 180 days of being notified that the County's wastewater system is operational and available for connection, the owner of a parcel of land located within the Service Area and on which there exists a building or other structure used for human occupancy or other purposes requiring sanitation facilities must install suitable sanitation facilities in the premises and must connect the facilities to the County's wastewater system. The Director of Public Works

may extend the connection deadline in individual cases of extraordinary circumstances. The connection must be accomplished by the owner in accordance with rules and regulations established by the County, including but not limited to any and all requirements and limitations of the Regional Water Quality Control Board, California Coastal Commission, and/or other regulatory agencies. These rules and regulations will include a phased connection plan.

SECTION 3: Sewer Service Charge Established.

A. Annual Sewer Service Charge. Pursuant to Government Code Section 25825.5 and Health and Safety Code section 5471, the annual sewer service charge on parcels of real property within the territory of the Service Area that receive sewer service is equal to the minimum charge and the volume charge. For the purposes of this section, a property shall be deemed to receive sewer service when it contains a building or structure subject to the mandatory connection requirement in Section 2 of this Ordinance and when the County has provided a lateral that terminates adjacent to the property line. A property deemed by this section to be receiving sewer service but that is not actually connected to the system is not subject to the volume charge. Notwithstanding anything the contrary in this Ordinance, the service charges imposed by this ordinance shall not become effective as to a particular property until 180 days after the County has provided notice to the property owner that the wastewater system is operational and available for connection. The County may elect to waive the service charge for a period of up to six months for those properties that establish connections to the system within the 180-day period following the County's notice to the property owner that the wastewater system is operational and available for connection.

B. The rates set forth in Exhibit "A" are hereby adopted, establishing rates effective subject to the provisions of Subsection 3.A.

C. Upon Board action to approve the collection of assessments and/or connection fees on undeveloped or underdeveloped properties within the Service Area, the rates set forth in Exhibit "B" shall automatically become effective.

D. Calculation of Annual Water Consumption. Subject to the provisions of Subsection 3.E of this ordinance, annual water consumption is the amount of water supplied to and consumed on a parcel of real property determined as follows:

1. Water consumption for premises containing residential dwelling units is based upon: first, a determination of the actual metered water consumption (measured in units) for the two-month water billing period that most closely covers the first two calendar months of the current calendar year (i.e., January and February); and, second, an annualization by extrapolation to reflect a period equivalent to 12 months. However:

a. In no case will the annualization calculation result in water consumption of less than 12 units.

b. If conclusive evidence is provided that the annualization calculation used in Subsection 3.D.1 results in computed consumption that is higher than the premises' actual annual consumption, the County may adjust the sewer service charge for the premises using the premises' actual annual consumption.

c. In the case of a new connection occurring after July 1 of any year, water consumption is presumed to be 125 gallons per day from the date of the new connection through June 30 of the following year; thereafter, the water consumption for the premises will be determined as provided in Subsection 3.D.1 above.

2. Water consumption for all non-residential uses is based upon actual metered water consumption (measured in units) during the 12-month period of the previous calendar year, or such other 12-month period as is determined by the County to be representative of the user's water consumption.

3. As used in this Section 3, a "unit" of water consumption is defined as the equivalent of a volume of water measuring one hundred cubic feet (748 gallons).

4. As a condition of the receipt of service, all property owners receiving service authorize the County to access consumption data for the property from the retail water purveyor that provides water service to the property.

E. Additional Provisions. The following are additional provisions applicable to the computation of the sewer service charge:

1. Upon application to the County by property owners maintaining extensive irrigated landscaping or in other situations where it can be conclusively established that the metered water consumption is not a valid measure of the quantity of wastewater discharged, the quantity of wastewater to be used in determining the yearly rate will be determined by the County.

2. The County may require, or the customer may request, the installation of County-approved meters on the premises for use by the County. Such meters must be available for inspection at any reasonable time and their cost of installation, operation, maintenance, and replacement are at the property owner's expense.

SECTION 4: Vacancy and Nonuse. No credit, adjustment or refund of the minimum charge may be made to a customer due to vacancy or nonuse.

SECTION 5: Person Responsible. The owner of the premises is responsible for payment of any and all sewer service charges applicable to the premises. It is the duty of each owner to ascertain from the County the amount and due date of applicable charges and to pay the charges when due. It is also the duty of the owner to inform the County promptly of all circumstances, and of any change in any circumstances that will affect the applicability or amount of the charge.

SECTION 6: Collection on the Tax Roll. The annual sewer service charges established by Section 3 of this Ordinance may be placed upon the tax roll and collected

in the same manner and at the same time as ordinary County ad valorem taxes are collected as specifically set forth in Health and Safety Code section 5473 and Chapter 3.22 of the San Luis Obispo County Code, and are subject to the same penalties and the same procedures and sale in case of delinquency as provided for such taxes.

SECTION 7: Direct Billing. If for any reason the full amount of any sewer service charges are not collected in accordance with the provisions of Section 6 of this Ordinance, the sewer service charges, or the portion thereof not appearing on the tax roll, will be collected by direct billing of the property owner, as provided in this Section. The provisions of this Section will also apply to sewer service charges accruing after a new connection to the County's wastewater facilities, in which case the annual charge will be prorated over the period of time from the date of the new connection to the end of the fiscal year.

A. Billing. The County will ascertain the amount of each sewer service charge applicable to such property and will mail to the owner after the date any sewer service charges become due and payable, a bill for the sewer service charges that are then due and payable. The bill will be mailed to the person or persons listed as the owner on the last equalized assessment roll of the County of San Luis Obispo at the address shown on the assessment roll, or to the successor in interest and/or the lessee of such owner, if the name and address of any successor in interest or lessee is known to the County. Each bill will contain a statement that a delinquency in payment for sixty (60) days constitutes a lien on the parcel against which the charge is imposed and that when recorded the lien will have the force, effect and priority of a judgment lien for three (3) years unless sooner released or otherwise discharged. Failure of the County to mail any bill or failure of owner to receive such a bill does not excuse the owner from the obligation of paying sewer service charges for premises owned by him or her.

B. How Payable. Each sewer service charge to be collected by direct billing is due and payable in full at the time of billing or at the time specified in the bill.

C. Delinquency Date of Sewer Service Charges. Each sewer service charge is delinquent if not paid on or before the thirtieth (30th) day of the month following the date upon which the sewer service charge became due and payable.

D. Penalties for Non-Payment of Sewer Service Charges – Lien. Whenever a delinquency occurs for non-payment of sewer service charges, a penalty of ten (10) percent attaches to the charges, and for each month that any portion of the charges remain delinquent, a further penalty of one and one-half (1-1/2) percent of the unpaid charge is added.

SECTION 8: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 26th day of October, 2010, and PASSED and ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 14th day of December, 2010, by the following roll call vote, to wit:

AYES: Supervisors: Bruce S. Gibson, Adam Hill, James R. Patterson, Chairperson Frank Mecham

NOES: None

ABSENT: Supervisor: K.H. 'Katcho' Achadjian

ABSTAINING: None

Frank Mecham
Chairperson of the Board of Supervisors
of the County of San Luis Obispo State of California

ATTEST:

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors, County of
San Luis Obispo, State of California

[SEAL]

By: Annette Ramirez
Deputy Clerk

ORDINANCE CODE PROVISION APPROVED
AS TO FORM AND EFFECT:

WARREN R. JENSEN
County Counsel
County of San Luis Obispo

By: Warren R. Jenson
County Counsel

Date: 10/15/2010

STATE OF CALIFORNIA) ss.
COUNTY OF SAN LUIS OBISPO)

I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this 28th day of December, 2010.

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: _____
Deputy Clerk

EXHIBIT A

SEWER SERVICE RATES

Account Type	Annual Charge	Monthly Equivalent
Sewer Rates: Residential Customers		
Single family	Minimum charge: $586.20 per dwelling unit Volume charge per unit :$7.54	Minimum charge: $48.85 per dwelling unit Volume charge per unit :$7.54
Multi-family	Minimum charge: $439.68 per dwelling unit Volume charge per unit :$7.54	Minimum charge: $36.64 per dwelling unit Volume charge per unit :$7.54
Mobile home or trailer park	Minimum charge: $293.28 per dwelling unit Volume charge per unit :$7.54	Minimum charge: $24.44 per dwelling unit Volume charge per unit :$7.54
Sewer Rates: Non-Residential Customers		
All accounts	Minimum charge: $733.56 per account Volume charge per unit: $7.54	Minimum charge: $61.13 per account Volume charge per unit: $7.54
Each Vehicle Discharging Septage into System		
Minimum charge	$150.00 per discharge up to 1,500 gallons	
Additional charge per 100 gallons in excess of 1,500 gallons discharged	$10.00	

EXHIBIT B

SEWER SERVICE RATES

Account Type	Annual Charge	Monthly Equivalent
Sewer Rates: Residential Customers		
Single family	Minimum charge: $206.28 per dwelling unit Volume charge per unit :$7.54	Minimum charge: $17.19 per dwelling unit Volume charge per unit :$7.54
Multi-family	Minimum charge: $154.80 per dwelling unit Volume charge per unit :$7.54	Minimum charge: $12.90 per dwelling unit Volume charge per unit :$7.54
Mobile home or trailer park	Minimum charge: $103.20 per dwelling unit Volume charge per unit :$7.54	Minimum charge: $8.60 per dwelling unit Volume charge per unit :$7.54
Sewer Rates: Non-Residential Customers		
All accounts	Minimum charge: $258.12 per account Volume charge per unit: $7.54	Minimum charge: $21.51 per account Volume charge per unit: $7.54
Each Vehicle Discharging Septage into System		
Minimum charge	$150.00 per discharge up to 1,500 gallons	
Additional charge per 100 gallons in excess of 1,500 gallons discharged	$10.00	