

TO: BOARD OF DIRECTORS

FROM: MARIO E. IGLESIAS  
GENERAL MANAGER



**AGENDA ITEM**

**E-1**

**JULY 13, 2016**

DATE: JULY 11, 2016

**AMENDED**

**INTRODUCE ORDINANCE TO REPEAL DISTRICT CODE SECTION  
3.05.070.B.1. APPLICATION FOR INTENT-TO-SERVE LETTERS, WILL-  
SERVE LETTERS AND TERMINATION**

**ITEM**

Introduce and edit, if necessary, an Ordinance to repeal District Code Section 3.05.070.B.1. pertaining to the conditions of termination for an Intent-to-Serve Letter. [RECOMMEND BY MOTION AND ROLL CALL VOTE AUTHORIZE STAFF TO READ PROPOSED ORDINANCE BY TITLE ONLY AND THEN, BY SEPARATE MOTION, INTRODUCE ORDINANCE AND SET HEARING DATE FOR ADOPTION]

**BACKGROUND**

On June 13, 2007, the District Board of Directors passed by roll call vote, Ordinance Number 2007-106 ("Ordinance") amending the rules and regulations for allocation of Intent-to-Serve Letters, Chapter 3.05 of the District Code. Your Board took further action in Ordinance 2009 – 114 on October 14, 2009, amending language in Chapter 3.05 to extend time for projects moving through the development process. There are four findings stated in the Ordinance:

- A. That the purpose and intent in further amending Chapter 3.05 is consistent with the purposes found in Section 3.05.010 of Chapter 3.05, the Judgment and Stipulation in the Ground Water Litigation imposing a physical solution to assure long-term sustainability of the groundwater basin and the San Luis Obispo County's certification of a Level III of the Severity for the waters underlying the Nipomo Mesa Management Area;
- B. Allocating Intent-to-Serve Letters for water service will provide greater assurance that there will be adequate groundwater to meet present and future needs of District residents consistent with the resource protection goals of the San Luis Obispo County South County Area Plan;
- C. That adopting the amendments to Chapter 3.05 will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection.
- D. The District's authority to adopt the Amendments referenced herein include, but are not limited to, Government Code Sections 61040(a), 61045 and 61060(a, b, and n).

The findings of the Ordinance will not be adversely affected by repealing §3.05.070.B.1.

It has been seven years since the Ordinance was passed and your Board has developed experience enforcing the regulation on the District's constituency. Your Board has become

aware of and recognizes a conflict between the County of San Luis Obispo's application policies and the Districts requirements as stated in the adopted Code. In part, the District's Code states:

3.05.070 - Application for intent-to-serve letters, will-serve letters and termination,

B. Termination: Intent-to-serve letters shall automatically terminate as follows:

1. Failure of the applicant to provide District with written verification, within two hundred forty calendar days from the date the intent-to-serve letter is issued, that the County has deemed the project application to be complete.

San Luis Obispo County ("County") provides written verification to applicants when they deem a project application complete. Applicants can expect the County's review and acceptance process to exceed two hundred forty calendar days. An example of the length of time needed for the application process can be found in the County's User's Guide to the General Plan Amendment Process, "[i]f an EIR is required, or the property is within the Coastal Zone requiring approval by the California Coastal Commission, that process will likely take 18 months [548 days] to three years [730 days]."

It is impractical for an applicant, who brings forward a project of any complexity, looking to secure utility services within the District's boundaries to meet the required timelines of the District's Code and the County's application process. There are provisions within the District's Code that provides an applicant up to four years to perfect an Intent-to-Serve Letter to a Will-Serve Letter. These provisions – §3.05.070.B.2 and §3.05.070.B.3 – provide a sufficient period of time to allow all applicants seeking utility services from the District due process as they advance through the County's and the District's permitting policies and regulations.

### **FISCAL IMPACT**

Minor staff time administrating Ordinance and preparing board materials.

### **STRATEGIC PLAN**

Goal 1. WATER SUPPLIES. Actively plan to provide reliable water supply of sufficient quality and quantity to serve both current customers and those in the long-term future.

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

- 6.4 Periodically review, update and reaffirm District policies and procedures.

### **RECOMMENDATION**

By motion and roll call vote authorize staff to read proposed Ordinance by title only and then, by separate motion, introduce Ordinance and set hearing date for adoption.

**ATTACHMENTS**

- A. Ordinance 2016-XXX REPEAL SECTION 3.05.070.B.1. AND RENUMBER SECTIONS 3.05.070.B.2. TO 3.05.070.B.1. AND 3.05.070.B.3. TO 3.05.070.B.2. OF THE DISTRICT CODE
- B. San Luis Obispo County General Plan Amendment Process
- C. Nipomo CSD Ordinance 2009-114
- D. Nipomo CSD New Development Supplemental Water Accounting Summary

July 13, 2016

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ATTACHMENT A

**ORDINANCE NO. 2016-XXX**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
REPEALING SECTION 3.05.070.B.1. AND RENUMBERING SECTIONS  
3.05.070.B.2. TO 3.05.070.B.1. AND 3.05.070.B.3. TO 3.05.070.B.2. OF THE  
DISTRICT CODE**

**WHEREAS**, the Nipomo Community Services District (“District”) provides water service within the District’s water service area pursuant to §61100(a) of the Community Services District Law, and

**WHEREAS**, Chapter 3.05, Application for Intent-to-Serve Letters, Will-Serve and Termination, of the District Code provides District constituents access to District water service; and

**WHEREAS**, the District constituents seeking to develop a parcel within District service boundaries are subject to the County of San Luis Obispo Planning Department (“County”), their policies and ordinances; and

**WHEREAS**, County review and acceptance of an applicant’s project application can exceed 365 days, limiting an applicant’s ability to secure written verification that the County has deemed the project application to be complete until such time the County ordains it so; and

**WHEREAS**, Subsection .070.B.1 of Chapter 3.05 of District Code requires project applicant to provided District with written verification within 240 days that the County has deemed the project application to be complete; and

**WHEREAS**, District Code and County policies are inconsistent with providing access to District constituents seeking District water service; and

**WHEREAS**, based on the Staff Report, staff presentation, and public comment, the District Board of Directors finds:

- A. Subsection .070.B.1 of Chapter 3.05 is untenable and is repealed.  
“Failure of the applicant to provide[d] district with written verification, within two hundred forty calendar days of the date the intent-to-serve letter is issued, that the county has deemed the county’s project application to be complete: or”
- B. Subsections .070.B.2 of Chapter 3.05 is renumbered .070.B.1
- C. Subsections .070.B.3 of Chapter 3.05 is renumbered .070.B.2

**NOW, THEREFORE BE IT ORDAINED**, by the Board of Directors of the District as follows:

**Section 1. Chapter 3.05 of the District Code**

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
REPEALING SECTION 3.05.070.B.1. AND RENUMBERING SECTION 3.05.070.B.2. TO 3.05.070.B.1,  
AND 3.05.070.B.3. TO 3.05.070.B.2. OF THE DISTRICT CODE

Subsection .070.B.1 of Chapter 3.05 of the District Code is hereby repealed in its entirety.

With the repeal of Subsection .070.B.1 of Chapter 3.24, the following are hereby renumbered:

Subsections .070.B.2 of Chapter 3.05 is renumbered .070.B.1

Subsections .070.B.3 of Chapter 3.05 is renumbered .070.B.2

**Section 2. Incorporation of Recitals**

The recitals to this Ordinance are true and correct and are incorporated herein by this reference.

**Section 3. Severability**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

**Section 4. Effect of headings in Ordinance**

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

**Section 5. Inconsistency**

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

**Section 6 — CEQA**

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds that the adoption of the rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen

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AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
REPEALING SECTION 3.05.070.B.1. AND RENUMBERING SECTION 3.05.070.B.2. TO 3.05.070.B.1.  
AND 3.05.070.B.3. TO 3.05.070.B.2. OF THE DISTRICT CODE

that the action will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

**Section 7 — California Department of Fish and Wildlife Certificate of Fee Exemption**

Pursuant to § 711.4 (c)(2)A of the Fish and Game Code, the District Board of Directors finds that rules and regulations adopted by this Ordinance will have no effect on fish and wildlife. The General Manager is authorized to file a California Department of Fish and Game Certificate of Fee Exemption.

**Section 8. Effective Date**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a paper of general circulation.

Introduced on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 and adopted by the Board of Directors of the Nipomo Community Services District \_\_\_\_\_, 2016, by the following roll call vote, to wit:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAINING:**

\_\_\_\_\_  
CRAIG ARMSTRONG  
President of the Board

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MARIO E. IGLESIAS  
General Manager and Secretary to the Board

\_\_\_\_\_  
MICHAEL W. SEITZ  
District Legal Counsel

July 13, 2016

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ATTACHMENT B



# USER'S GUIDE TO THE GENERAL PLAN AMENDMENT PROCESS

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING  
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

*Promoting the Wise Use of Land • Helping to Build Great Communities*

## INTRODUCTION

This is your guide to amendments to the county general plan. It is designed to help answer your questions about the process, including:

- ✓ Where do I begin, if I am considering a general plan amendment?
- ✓ What information must I provide to be sure my application is complete?
- ✓ How much will the process cost?
- ✓ After I submit my application, what will happen before my request can be approved or denied?
- ✓ What considerations are reviewed before a decision is made to approve or deny a general plan amendment?
- ✓ How long will the process take?

## CHANGING THE GENERAL PLAN

Before any portion of the general plan can be changed, a thorough review of the requested change must be completed. Amending the general plan is an important decision. The process is governed by state law that requires each amendment request to be evaluated by the Planning Commission and the Board of Supervisors at public hearings before a decision is made. In the coastal zone, amendments must also be approved by the California Coastal Commission.

State law limits the Board of Supervisors' consideration of requested general plan amendments to four times each year. The county schedules consideration of general plan amendment requests three times a year (typically Spring, Fall, and Winter), reserving the option to schedule a fourth hearing around unexpected needs.

Any part of the general plan can be changed through the amendment process, including land use categories or combining designations (our equivalent to zoning) shown on the Official Maps, or any portion of the plan's text, including narrative, policies, programs, or standards. Most amendment applications are requests to change the Land Use Element, but any of the elements of the general plan can be amended.

## WHERE DO I BEGIN?

In an initial meeting with a staff planner, you will be given an overview of the process and a checklist of the information and materials you need to provide to complete your application for a general plan amendment. Call the Planning Department at 781-5600 to make an appointment.

## WHAT INFORMATION MUST I PROVIDE AND HOW MUCH WILL THE PROCESS COST?

An application for general plan amendment must include the following information:

**A. Amendment Application** A standardized application which provides general information about the applicant, the property owner, and the property. On the back of this application is the "Consent of Landowner" form authorizing an agent to act for the landowner.

**B. General Plan Amendment Application.** This form provides specific information about the requested change to the general plan.

**C. Map of property proposed for change.** If your application proposes to change the land use category on a property (to “rezone”), the location of the property or area proposed for change must be provided on a map.

**D. A written statement from the applicant** The statement should clearly explain the request for the change and describe any development that may be proposed following the change. Any conceptual drawings or plans for such proposed development should also be included.

**E. Environmental Description Form** This form provides pertinent information about the physical characteristics of the site. The information will be used to complete the environmental review of the requested change, as required by the California Environmental Quality Act (CEQA).

**F. Filing Fee and Cost Accounting Forms** The base filing fee is what is required by the current county fee ordinance. In the Coastal Zone additional fees need to be added to the base filing fee. If you are requesting a change to or from the Agriculture land use category, there is an additional fee. If the property is within the Airport Review Area Combining Designation, an additional fee is required. Filing fees are a deposit toward the actual cost of processing. Refunds will be provided if the fee exceeds the costs associated with processing your application. Quarterly bills will be sent if processing costs exceed the fee.

#### **WHAT HAPPENS NEXT?**

Once your completed application is filed, planning staff will review the information and prepare a formal request that the proposed change be included on a Board of Supervisors meeting agenda to determine whether to “authorize the application for processing.”

**A. Authorization to Process** Approximately 10 to 12 weeks after the amendment application is submitted, the proposal is taken before the Board of Supervisors, who will either direct the department to continue to process the application, or decide not to consider it. If the Board terminates the process, any unused portion of the initial fee deposit will be refunded. If the Board chooses to process the request, the remaining steps outlined in this guide will then be followed. However, it should be clearly understood that Board of Supervisors authorization for processing is no guarantee that the request will later be approved. The proposed amendment must still undergo the environmental review process, detailed staff analysis, and public hearings. If problems are identified changes may be required before it can be approved or it could result in the request being denied.

**B. Environmental Review** As required by the California Environmental Quality Act (CEQA), the application will be subject to an environmental review to determine if significant environmental impacts could result from the proposed change. The review will result in either a Negative Declaration (ND), or a determination that an Environmental Impact Report (EIR) is required. An official statement asserting the county’s position that the proposed change would produce no significant environmental impacts is called an N.D. An EIR thoroughly analyzes potential environmental effects of the amendment and recommends specific mitigation measures designed to minimize or otherwise address each effect. When an EIR is recommended by staff, an applicant may request that the Board of Supervisors decide whether or not to require an EIR.

**C. Planning Commission Public Hearing** The Planning Commission holds an advertised public hearing on the proposed amendment. They will carefully review the staff report, any relevant information you provide, and hear comments from the public, before formulating a recommendation to the Board of Supervisors. It is extremely important that you attend this hearing and be prepared to answer any questions the Commission may have about the proposal.

**D. Board of Supervisors Public Hearing** The Board of Supervisors holds another advertised public hearing on the requested amendment during which it will consider the Planning Commission recommendation, any additional information you provide and comments from the public. The Board's decision is final, unless the property proposed for a general plan amendment is located within the Coastal Zone, a specific area designated by the 1976 California Coastal Act. Projects within this zone are subject to a public hearing before the California Coastal Commission, which can grant final approval or deny the request. The hearing before the Coastal Commission is scheduled by its staff and will likely be held in a location outside of the county. The Board of Supervisors must then acknowledge the action taken by the Coastal Commission. If the Board disagrees with that action, it may re-submit the amendment proposal. The amendment cannot become final until it is approved by both the county and the Coastal Commission.

#### **WHAT IS CONSIDERED IN APPROVING OR DENYING AN AMENDMENT REQUEST?**

When proposing a general plan amendment, applicants should keep in mind that the proposal will be carefully reviewed to determine how it relates to the specific site, and affects its neighborhood and the community (which may include the entire county). To put it another way, the decision-makers want to be sure that any development allowed as a result of a general plan amendment will "fit in" with the surrounding area and support adopted community goals. The following concerns are likely to be considered before any decision is made on a general plan amendment.

**A. Relationship to Community Planning Goals Regarding Orderly Growth** The potential effects of the proposed change on how and where a community will grow will be carefully reviewed. A proposed change that furthers community planning goals is more likely to be approved than one that hinders them. The two most significant community planning goals are: (1) to fully develop vacant or under-used land within existing community boundaries before expanding them for new development; and (2) to avoid "leapfrog" growth, which is an inefficient and expensive form of development. It is more efficient to develop land that is within, or adjacent to, an area where improved roads and water and sewer lines already exist, and where police and fire protection is already provided.

**B. Relationship to Surrounding Land Uses** If the proposed change would result in different uses being allowed, it is important that those new uses be consistent or compatible with the uses on neighboring properties. For example, if the proposed change would allow an auto dismantler in a residential neighborhood, the request is unlikely to be supported.

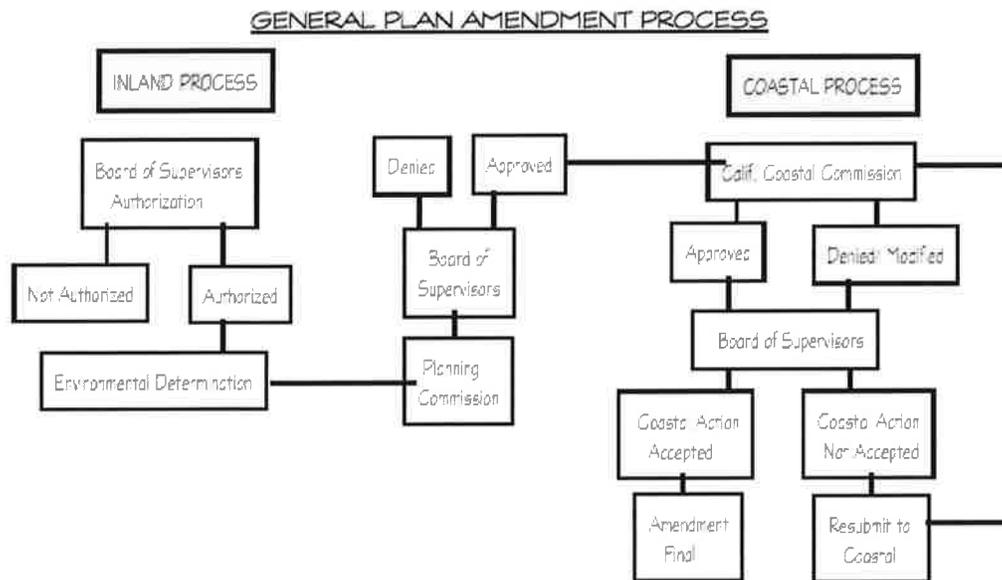
**C. Relative Size of the Change** An amendment that would result in "spot zoning," where a relatively small area located within a much larger one would be designated for a different land use, may be difficult to justify when such a change grants a special privilege to only one or a few property owner(s).

**D. Land Capability and Service Availability** Will the land proposed for change be able to support the types of development that could be allowed by the amendment, if approved? Several things are considered as that question is explored, including the area's topography, available services, existing streets, and the presence of sensitive environmental resources.

**E. Relationship to Other General Plan Elements** Most general plan amendments are to land use categories contained in the county Land Use Element (LUE), but they must remain consistent with the other elements that comprise the general plan. Because of this consistency requirement, other elements of the general plan may also require amendment.

**HOW LONG WILL THE PROCESS TAKE?**

The amendment process typically takes 12 to 18 months from the time the request is submitted to a final action. If an EIR is required, or the property is within the Coastal Zone requiring approval by the California Coastal Commission, that process will likely take 18 months to three years.



*This guide is designed to provide general information only. It is not a county ordinance or policy and has no legal effect. The general plan and other chapters of the San Luis Obispo County Code are the official regulations of the county. Those documents, rather than this guide, are the only legal basis for assessing how county regulations affect property development*

July 13, 2016

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ATTACHMENT C

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009- 114**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE  
WATER SERVICE LIMITATIONS**

**WHEREAS**, it is essential for the protection of the health, welfare, and safety of the residents of the Nipomo Community Services District ("District"), and the public benefit of the State of California ("State"), that the groundwater resources of the Nipomo Mesa be conserved; and

**WHEREAS**, the District's current water supply is groundwater extracted primarily from the Nipomo Mesa Management Area (NMMA), (also referred to as the Nipomo Mesa Water Conservation Area (NMWCA) by the County of San Luis Obispo), of the Santa Maria Groundwater Basin. A small proportion of District's water is pumped from groundwater in the Nipomo Valley; and

**WHEREAS**, the District is a party to a groundwater adjudication, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation"); and

**WHEREAS**, pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008, Final Judgment in the Groundwater Litigation the Nipomo Mesa Management Area Technical Group has declared that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area; and

**WHEREAS**, the San Luis Obispo County Department of Planning and Building's 2004 Resource Capacity Study for the Water Supply in the Nipomo Mesa Area recommends a Level III of Severity (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Water Conservation Area and that measures be implemented to lessen adverse impacts of future development (said Study and referenced documents are incorporated herein by reference); and

**WHEREAS**, on June 26, 2007, the San Luis Obispo County Board of Supervisors certified the water supply underlying the Nipomo Mesa Water Conservation Area (NMWCA) at a Resource Management System Level III of Severity; and

**WHEREAS**, the resource protection goals of the San Luis Obispo County South County Area Plan include the following:

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.
- Avoid the use of public resources, services and facilities beyond their renewable capacities, and monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels; and

**WHEREAS**, the County of San Luis Obispo has adopted a "Growth Management Ordinance" (Title 26 of the County Code) that imposes a 1.8 percent growth limitation for non-exempt projects for the Nipomo Mesa area (said Title 26 and implementing Ordinance and supporting studies, including the supporting CEQA analysis are incorporated herein by this reference). The stated purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare including:

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1. To establish an annual rate of growth that is consistent with the ability of community's resources to support the growth, as established by the Resource Management System (RMS) of the County General Plan;
2. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the County Board of Supervisors; and
3. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources necessary to support existing and proposed new development as envisioned by the County General Plan; and

**WHEREAS**, it is essential for conservation purposes, and for the protection of groundwater resources, that the District adopt rules, regulations and procedures for allocating new water service; and

**WHEREAS**, the District Board of Directors, at a public meeting, on September 9, 2009, reviewed and edited the proposed revisions to various sections of Charter 3.05 of the District Code; and

**WHEREAS**, on September 30, 2009, the District Board of Directors, at a public meeting, took the following actions in considering the proposed amendments to Chapter 3.05:

- A. Considered the facts and analysis as presented in the Staff Report prepared for the adoption of this Ordinance;
- B. Conducted a public hearing to obtain public testimony on the proposed Ordinance; and

**WHEREAS**, in amending Chapter 3.05, the District does not intend to limit other authorized means of managing, protecting and conserving the groundwater basin, and intends to work cooperatively with the NMMA Technical Group and other agencies to implement joint groundwater management practices; and

**WHEREAS**, based on the Staff Report, Staff presentation, and public comment, the District Board of Directors finds:

- A. That the purpose and intent in further amending Chapter 3.05 is consistent with the purposes found in Section 3.05.010 of Chapter 3.05, the Judgment and Stipulation in the Ground Water Litigation imposing a physical solution to assure longterm sustainability of the groundwater basin and the San Luis Obispo County's certification of a Level III of Severity for the waters underlying the Nipomo Mesa Management Area;
- B. Allocating Intent-to-Serve Letters for water service will provide greater assurance that there will be adequate groundwater to meet present and future needs of District residents consistent with the resource protection goals of the San Luis Obispo County South County Area Plan;

**NIPOMO COMMUNITY SERVICES DISTRICT  
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WATER SERVICE LIMITATIONS**

- C. That adopting the amendments to Chapter 3.05 will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection.
- D. The District's authority to adopt the Amendments referenced herein include, but are not limited to, Government Code Sections 61040(a), 61045 and 61060 (a, b, and n).

**NOW, THEREFORE BE IT ORDAINED** by the Board of Directors of the District as follows:

**Section 1. Amendments to Certain Sections of Chapter 3.05 of the District Code**

The District Board of Directors hereby adopts and approves the Amendments and Restatements of Sections 3.05.030, 3.05.040, 3.05.050, 3.05.060, 3.05.070, 3.05.100 and 3.05.110 of Chapter 3.05 of the District Code as provided in Exhibit A attached hereto and incorporated herein by this reference.

The District Board of Directors hereby adopts and approves new sub-section D to Section 3.05.020 of Chapter 3.05 of the District Code as provided in Exhibit A attached hereto and incorporated herein by this reference.

**Section 2. Incorporation of Recitals**

The recitals to this Ordinance are true and correct, are incorporated herein by this reference, including the referenced documents, and constitute further findings for the implementation of the Water Service Limitations adopted by this Ordinance.

**Section 3. Severability**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

**Section 4. Effect of headings in Ordinance**

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

**Section 5. Inconsistency**

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject

**NIPOMO COMMUNITY SERVICES DISTRICT  
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matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

**Section 6. CEQA**

The District performed an environmental assessment in adopting Chapter 3.05. Said CEQA checklist confirmed that the adoption of the rules and regulations allocating Intent-to-Serve Letters could not have a significant effect on the environment. Said environmental checklist and negative declaration are incorporated herein by reference. Based on the prior CEQA review the Board of Directors finds that the adoption of the rules and regulations established by this Ordinance fall within the activities described in Section 15061 (b)(3) of the CEQA Guidelines which are deemed not to be projects for the purposes of CEQA because they can be seen with certainty that there is no possibility that the rules and regulations in question may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

**Section 7. Effective Date**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the fifteenth (15<sup>th</sup>) day after passage Exhibit A shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

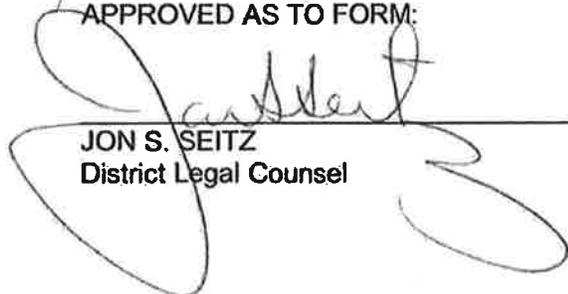
Introduced on the 30<sup>th</sup> day of September, 2009, and adopted by the Board of Directors of the Nipomo Community Services District on October 14, 2009, by the following roll call vote, to wit:

AYES: Directors Vierheilig, Nelson, and Winn  
NOES: Directors Eby and Harrison  
ABSENT: None  
ABSTAINING: None

  
\_\_\_\_\_  
JAMES HARRISON,  
President of the Board of Directors  
Nipomo Community Services District

ATTEST:

\_\_\_\_\_  
DONNA K. JOHNSON  
Secretary to the Board

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
JON S. SEITZ  
District Legal Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009- 114**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE  
WATER SERVICE LIMITATIONS**

**Exhibit "A"**

**BE IT ORDAINED** by the Board of Directors of the Nipomo Community Services District as follows:

**Section 1. Amendments to Chapter 3.05 of the District Code**

A. The Nipomo Community Services District Board of Directors hereby adopts and approves the Amendment of Section 3.05.020 of Chapter 3.05 of the District Code to include the definition of Observed Demand as follows:

**3.05.020 Definitions.**

D. "Observed Demand" means the water demand as calculated/averaged (applying irrigation demand), using the analysis in the draft Engineers Report for the water line inter-tie project for the following categories:

- A. 0.33 AFY per multi-family dwelling unit or duplex units;
- B. 0.48 AFY per single-family dwelling unit located on a parcel of twelve thousand seven hundred sixty-eight square feet or less;
- C. 0.80 AFY per single-family dwelling unit located on a parcel size between twelve thousand seven hundred sixty-nine and twenty-five thousand five hundred thirty-six square feet;
- D. 0.96 AFY per single-family dwelling unit located on a parcel size of twenty-five thousand five hundred thirty-seven square feet or greater;

B. The Nipomo Community Services District Board of Directors hereby adopts and approves the Amendments and Restatement of Sections 3.05.030, 3.05.040, 3.05.050, 3.05.060, 3.05.070, 3.05.100 and 3.05.110 of Chapter 3.05 of the District Code as follows:

**3.05.030 Limitations on water use.**

Total demand certifications, including landscaping, are established, to achieve a 15% reduction in observed demand for the following uses:

- A. 0.28 AFY per multi-family dwelling unit and duplex unit;
- B. 0.40 AFY per single-family dwelling unit located on a parcel of twelve thousand seven hundred sixty-eight square feet or less;
- C. 0.68 AFY per single-family dwelling unit located on a parcel size between twelve thousand seven hundred sixty-nine and twenty-five thousand five hundred thirty-six square feet;
- D. 0.82 AFY per single-family dwelling unit located on a parcel size of twenty-five thousand five hundred thirty-six square feet or greater;

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WATER SERVICE LIMITATIONS**

**Exhibit "A"**

**3.05.040 Water allocation per allocation year.**

A. 34.3 acre-feet is the initial reservation for residential projects. The initial reservation is reduced by 5% or to 32.5 AFY to account for commercial growth in water demand resulting from residential development. The 32.5 AFY (total per allocation year) is allocated to projects as follows:

1. Category 1: A total of 20.8 AFY, including landscaping, is reserved for:
  - a. For Single-family dwelling units; and
  - b. Two-family dwelling units (duplexes).
2. Category 2: A total of 6.5 AFY, including landscaping, is reserved for multi-family dwelling units.
3. Category 3: A total of 3.2 AFY is reserved for secondary dwelling units and local agency maintained landscaping projects.

B. During the end of the second quarter and in the middle of the fourth quarter of each allocation year the unused allotments for categories referenced in Section A, above, may be re-allocated by the Board of Directors to other categories referenced in Section A, above.

C. Notwithstanding subparagraph B, above, the District shall reserve 2.00 AFY for proposed housing developments which help meet the County of San Luis Obispo's share of regional housing needs for lower-income housing as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors. Said reservation shall be applied only to Category 1 and Category 2 projects referenced in Subparagraph A, above. Further, said reservation may only be re-allocated during the fourth quarter of each allocation year.

**3.05.050 Water demand certifications required.**

A. Will-Serve letters: All applications for Will-Serve letters for residential projects referenced in Section 3.05.040 require a registered engineer's or architect's certification that:

1. Low-water use landscape and irrigation systems will be installed to irrigate landscaping; and
2. The maximum total water demand, including landscaping does not:
  - a. Exceed the limitations established in Section 3.05.030, above;
  - b. For family dwelling units with secondary dwelling units--Exceed a total water demand referenced in 3.05.100.

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**Exhibit "A"**

**B. Intent-to-Serve letters:** All applications for Intent-to-Serve letters shall require a registered engineer's or architect's certification that:

1. Low-water use landscape irrigation systems will be installed to irrigate landscaping; and
2. The design maximum total water demand, including landscaping, does not exceed the limitations on water use established in Section 3.05.030, above.
3. For nonresidential/commercial/industrial projects, Intent-to-Serve applications shall include the following: an irrigation plan, a plant material layout plan, and a plant material list (if not included in the plant material layout plan); and a hardscape plan shall be submitted if there are any water features (such as fountains and swimming pools) included in the project design.

**C. Will-Serve letters** will not be issued to nonresidential/commercial/industrial projects until the General Manager verifies that the landscape irrigation and plant material layout plans and/or hardscape plan comply with the total project water demand established by Section 3.05.035.

**3.05.060 Project Water Demand Allocation.**

Projects shall be assigned water, and the allocations established in Section 3.05.040 reduced, or accounted for, by the Observed Demand as follows:

- A. 0.33 AFY per multi-family dwelling unit or duplex unit;
- B. 0.48 AFY per single-family dwelling unit located on a parcel of twelve thousand seven hundred sixty-eight square feet or less;
- C. 0.80 AFY per single-family dwelling unit located on a parcel size between twelve thousand seven hundred sixty-nine and twenty-five thousand five hundred thirty-six square feet;
- D. 0.96 AFY per single-family dwelling unit located on a parcel size of twenty-five thousand five hundred thirty-six square feet or greater;

**3.05.070 Application for Intent-to-Serve letters, Will-Serve letters and Termination.** The following procedures, are in addition to other District rules and regulations relating to Intent-to-Serve letters and Will-Serve letters, and shall apply to all applications for Intent-to-Serve letters and Will-Serve letters approved by the District:

- A. **Applications:** Application for Intent-to-Serve letters shall be made on the District's form. In order to be considered for an Intent-to-Serve letter the application shall contain a verification that applicant has submitted the proposed project for initial review to the County Planning and Building Department.
- B. **Termination:** Intent-to-Serve letters shall automatically terminate as follows:

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1. Failure of the applicant to provide District with written verification, within two hundred forty calendar days from the date the Intent-to-Serve letter is issued, that the County has deemed the project application to be complete.
2. The failure of the applicant to receive both the acceptance of the project improvements and a final Will-Serve letter within three years from the date the Intent-to-Serve letter is issued.
3. An applicant shall be entitled to a one-year extension of the three year limitation upon the following conditions:
  - (a). Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve letter.
  - (b). Proof of reasonable due diligence in processing the project.
  - (c). Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- C. Extensions: All Intent-to-Serve letters that have not expired on or before the second reading of the ordinance adopting this section shall be extended for an additional twelve months.

**3.05.100 Limitation on secondary units.**

In addition to the other requirements contained in this Chapter, applications for water service to secondary units will only be accepted that include a registered engineer's or architect's certification that the total water demand for the secondary unit and the primary dwelling unit will not exceed 110% of the limitations established for the primary unit identified in Section 3.05.030.

**3.05.110 Limitations on allocations.**

- A. Only one request for an Intent-to-Serve letter will be considered for anyone project or parcel. The District will not allocate more than twenty percent of the allocations referenced in Section 3.05.040 (A)(1)(2) or (3) to a project during any one allocation year.
- B. A maximum of fifty percent of the annual water allocation for each successive allocation year may be reserved for projects requiring phasing of water commitments.
- C. Water not allocated during a water year shall not be transferred to the succeeding water year.
- D. Commencing with allocation year 2009/2010, the District may, during the 4th quarter, adjust the 20% limitation referenced subparagraph A upon a finding that there is an unused allocation in a designated category. The priorities for distributing the adjusted allotment are as follows:
  1. Projects on the waiting list,
  2. Projects with existing phased Intent-to-Serve letters,
  3. New Projects.

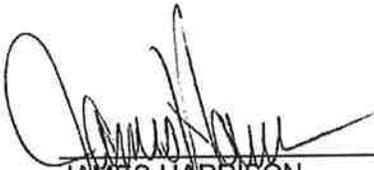
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**Exhibit "A"**

Introduced on the 30<sup>th</sup> day of September, 2009, and adopted by the Board of Directors of the Nipomo Community Services District on October 14, 2009, by the following roll call vote, to wit:

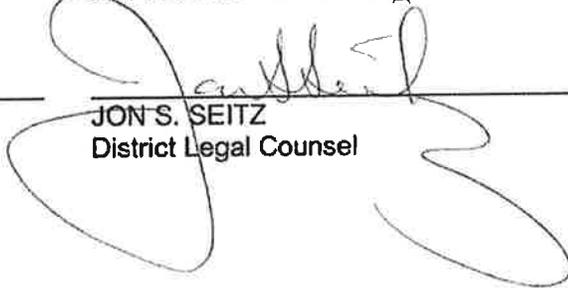
AYES: Directors Vierheilig, Nelson, and Winn  
NOES: Directors Eby and Harrison  
ABSENT: None  
ABSTAINING: None

  
\_\_\_\_\_  
JAMES HARRISON,  
President of the Board of Directors  
Nipomo Community Services District

ATTEST:

  
\_\_\_\_\_  
DONNA K. JOHNSON  
Secretary to the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JON S. SEITZ  
District Legal Counsel

July 13, 2016

ITEM E-1

ATTACHMENT D

**Nipomo Community Services District**  
**New Development Supplemental Water Accounting**

**Summary**

<b>Description</b>	<b>Applications</b>	<b>Acre Feet/Year</b>
Supplemental Water Available for Allocation		500.0 AFY
Supplemental Water Reserved (Will Serve Letter Issued)	3	-5.8 AFY
Subtotal Net Supplemental Water Available for Allocation		494.2 AFY
Supplemental Water Assigned (Intent-to-Serve Issued)	14	-206.3 AFY
Total Remaining Supplemental Water Available for Allocation		287.9 AFY

As of July 7, 2016