

SIERRA LAKES COUNTY WATER DISTRICT

ORDINANCE No. 94

An Ordinance Establishing Procedures for Relinquishing and Acquiring Unused Sewer Capacity

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE SIERRA LAKES COUNTY WATER DISTRICT as follows:

Ordinance Section One:

Purpose and Intent:

It is the intent of this Ordinance to provide a procedure to allow property owners who hold the rights to unused sewer capacity (measured and referred to herein as "Equivalent Dwelling Units" or "EDUs") that has been allocated to their respective real property pursuant to the assessments levied by the Sierra Lakes County Water District ("District") in 2012, to relinquish those allocated EDUs to the District, and for property owners who desire to acquire any unused sewer capacity that may from time to time be available to do so. This Ordinance is not intended to and shall not be construed as creating any obligation or duty upon the District to approve any request for relinquishment or acquisition of sewer capacity.

Sewer capacity may only be used by the real property as allocated by official action of the District and cannot be transferred between properties except as expressly provided for by the Ordinance and with the approval of the District.

Ordinance Section Two:

Procedures for Relinquishment or Acquisition of Unused Sewer Capacity :

A. Relinquishment Procedures

1. Notification: Any property owner who has unused sewer capacity rights may submit a written notification to the District offering to surrender such rights back to the District. Any lenders having a secured interest in the property surrendering sewer capacity shall be required to consent to the surrender in writing as a condition of making any such surrender or transfer. The notice offering to surrender sewer capacity shall be on a form provided by the District and shall require the signature of any lender having a secured interest in the property. All signatures on the notice shall be notarized. Subject to the provisions of this Ordinance and such requirements as may from time to time be established by the District's Board of Directors ("Board"), the relinquishment of unused sewer capacity shall, if accepted, be based on a priority established by the date of the filing of the respective notices offering to surrender sewer capacity. The District reserves the right to establish a fee for filing and processing of any such notices offering to surrender sewer capacity, and no notice shall be valid without payment of the fees (if established by the District). *The Board may, in its discretion, allow the surrender of sewer capacity on property if a deed restriction, in a form approved by the District, is*

recorded as to the property creating an environmental restriction that eliminates the ability to develop and use the property in a manner that creates a need for connection to and service by the wastewater treatment plant. Nothing herein shall be construed as obligating the District to acquire any unused sewer capacity and the District may elect to defer consideration of any acquisition of unused sewer capacity to such times when other properties have submitted an application for acquisition of sewer capacity.

2. Revocation: Once filed, the notice may only be revoked by giving written notice to the District. Any such revocation notice shall not be effective until the day after it is received by the District at the District's office. A revocation notice shall not be effective if the District has previously authorized transfer of the subject sewer capacity to another property owner prior to the effective date of the attempted revocation (the day following the actual receipt of the notice by the District) and there are no other EDUs available to transfer to the property requesting sewer capacity.

3. Assessments: Unused sewer capacity may not be surrendered/relinquished if there is an outstanding sewer assessment lien against the property that is seeking to surrender the sewer capacity. Sewer assessment liens shall be identified and addressed as follows:

a. Upon receipt of a request to surrender unused sewer capacity (EDUs), the District administrative staff shall determine the present status of any sewer assessment liens against and secured by the relinquishing property.

b. No surrender of EDUs shall be permitted if there are any unpaid assessment liens on the relinquishing property for the EDUs offered for surrender. The property owner requesting the surrender shall as a condition to effectuating a surrender, prepay the assessment with respect to the number of EDUs being relinquished and remove the assessment lien as to the relinquished EDUs by complying with the relevant provisions of Streets and Highways Code sections 8766 and 8766.5. In the event that the Board agrees to immediately reimburse the property owner for sewer capacity being surrendered, such funds shall be used to prepay the assessment unless the property owner has previously prepaid the assessment and extinguished the assessment lien.

c. Relinquishing property owners will be liable for all assessment payments and sewer service fees imposed by the District, including without limitation, fees for ongoing sewer service, operations and maintenance charges or supplemental assessment, until surrender is completed and the District agrees to and acquires the sewer capacity. At the time of the surrender, any fees for the current year shall be prorated through the month of delivery with the entirety of the month favoring the relinquishing property.

4. Payment to Property Owner: At the time of accepting the relinquishment of the unused sewer capacity the Board may elect to reimburse the owner of the relinquishing property at that time or may elect to defer reimbursement until such time as the unused sewer capacity is reallocated to and paid for by another property owner. The reimbursement to the relinquishing property owners shall be equal to the amount of the sewer assessment as originally assessed against the relinquishing property for the sewer capacity that is relinquished.

B. Acquisition Procedures

Any property owner who desires to acquire sewer capacity rights may submit a written application to the District offering to acquire such rights. Such application shall be on a form provided by the District and shall be notarized. An application fee which is established by resolution by the Board shall accompany the application. If no EDUs are available for a requesting party, the District shall hold the application requesting EDUs for two (2) years. As EDUs become available, they may be assigned on a first come, first served basis to applicants with valid applications on file. To remain in effect, an application must be renewed every two (2) years. If an application is renewed prior to the expiration date, the applicant will maintain his/her place in line for a future acquisition. The application is transferable if requested in writing to the District by a subsequent purchaser of the acquiring property without losing the original applicant's place in line. Before a property owner can acquire EDUs, the acquiring property must be zoned by the County of Placer to reflect the development which would be consistent with that number of EDUs for that property after acquisition.

C. General Procedures

All applications to relinquish and/or acquire EDUs must be approved by the Board. The District reserves the sole discretion to determine if surrender of capacity will leave a property without adequate sewer capacity based on the intensity of development permitted for the property under the applicable zoning regulations. All relinquishments and/or acquisitions shall be in compliance with District ordinances, policies and procedures. Relinquishments and acquisitions shall be evidenced by the adoption of a Board resolution identifying the properties relinquishing and/or acquiring the EDUs and the number of EDUs being relinquished or acquired, which resolution shall be recorded in the official records of the County of Placer as a document affecting an interest in real property and to provide constructive notice of the sewer capacity allocated to the involved properties.

D. EDU Costs.

In order to acquire any sewer capacity the acquiring property owner shall pay to the District the actual and direct costs of the EDU as originally assessed to the relinquishing property owner together with such interest as would have accrued thereon from the date of the original assessment, plus any administrative fees set by the Board, and such additional payment as required to fully reimburse the District for all expenses incurred by the District.

E. Connection Costs and Easements

A property owner acquiring EDUs shall be fully liable for all costs for the sewer connection and for pipeline installation costs and any other expenses or costs incurred to connect the property to the sewer system. The District reserves the sole discretion to determine if a property can feasibly be connected to the sewer system. If any easements are required in order to connect the acquiring property to the sewer system, the property owner acquiring the EDUs shall be responsible for obtaining the necessary easements and shall pay whatever costs are required for those easements, including, but not limited to,

surveying costs, District staff costs and any attorneys' fees associated with obtaining the easements. District reserves the right to require that any such easements be granted to and in the name of the District. The legal description of the easements shall be reviewed and approved by the District's engineer and shall be on an Easement Deed in a form approved by District's Counsel.

G. Service Outside of District Boundaries.

If a property owner desires sewer service for property located outside District boundaries, the property owner shall be required to annex that property to the District through procedures of the Placer County Local Agency Formation Commission (LAFCo) prior to being granted sewer capacity for the property. The applicant shall be responsible for the processing and payment of all fees charged by LAFCo. District charges for its participation in the annexation process are separate from and in addition to the LAFCo charges and shall be paid in full to the District prior to the time that any such annexation is finalized.

Ordinance Section Three:

This ordinance shall take effect thirty (30) days after its passage. 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 voting for and against the ordinance in the Sierra Sun, a newspaper of general circulation published in the County of Placer, State of California. This Ordinance shall also be posted in three public places in the District within ten (10) days of its adoption

AYES: Directors Luscher, Burns, Freedle, Oudegeest and Heald

NOES: None

ABSTAIN: None

ABSENT: None

SIERRA LAKES COUNTY WATER DISTRICT



PRESIDENT, BOARD OF DIRECTORS

ATTEST:



BOARD SECRETARY