

ORDINANCE NO. 2013-_____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA ENACTING CHAPTER 22.180 OF THE SAN BUENAVENTURA MUNICIPAL CODE TO ESTABLISH WATER DEDICATION AND IN-LIEU FEE REQUIREMENTS FOR NEW OR INTENSIFIED DEVELOPMENT

The Council of the City of San Buenaventura does ordain as follows:

Section 1. Findings.

- A. New or intensified urban development places an increased demand for water upon the City's existing water supply.
- B. The City's existing water consumption is currently near the City's existing water supply maximum.
- C. There exists a need for additional water resources, and that need is caused by new or intensified urban development.
- D. In order to mitigate the water resource impacts of new or intensified urban development, it is necessary and desirable for new or intensified urban development to provide supplemental water resources to the City's water system in an amount proportional to the new demand created by such development, or to pay an in-lieu fee based upon the cost of obtaining water supplies to meet the demand of new or intensified urban development.
- E. The City has caused to be prepared a technical and economic evaluation of a water resource in-lieu fee which has been reviewed by the City Council. That evaluation establishes the estimated costs of obtaining water resources for various zones within the City and bases the amount of the in-lieu fee upon those costs.
- F. As established by the City's nexus study which is on file with the City Clerk and which has been reviewed by the City Council, there is a reasonable relationship between the water dedication requirements and in-lieu fees established by this chapter and the impacts of new or intensified urban development because the amount of water to be dedicated and the amount of any fees to be collected is directly proportional to the impacts of the new or intensified urban development upon which the dedication requirement or fees are imposed.

Section 2. Chapter 22.180 of the San Buenaventura Municipal Code is added to read as follows:

Chapter 22.180 Water Dedication and In-Lieu Fee

Section 22.180.010 Purpose.

As property within the boundary of the City develops or as new properties are annexed, agricultural and other land uses are likely to be converted to new or intensified urban land uses. The water rights associated with the property and/or wells that are now used by agriculture or other less intense uses will be needed to serve the new or intensified urban land uses. This chapter provides a mechanism by which those water rights will be dedicated to municipal use, or alternately a fee paid in lieu of dedicating those water rights when the available water rights either are not sufficient to meet the needs of the new or intensified land use, or the owner or developer cannot or will not dedicate the required water rights to meet the needs of the new or intensified land use. The purpose of the fee is to provide funds for projects to develop or acquire additional water rights or water resources to mitigate the added water demand caused by the land development. This chapter also includes a provision for the sharing of water rights for new or existing agriculture located on the remaining portion of any parcel of land that is being developed to assure that existing agriculture located on the parcel is not needlessly or prematurely destroyed due to the lack of water or that viable new agriculture proposed to be located on the remaining portion of the parcel is not prohibited due to a lack of water.

Section 22.180.020 Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

A. "Water Right" shall mean: 1) any right or allocation held on or after March 7, 1996 to pump ground water pursuant to the judgment in the case of *United Water Conservation District vs. City of San Buenaventura* (Ventura County Superior Court Case No. 115611), and any subsequent amendment or restatement of the judgment, or 2) any such other water rights that may be available for permanent transfer including but not limited to any and all applicable groundwater pumping allocations, shares, and/or credits associated with the property to be served by the City and available from a management agency, associations, shareholder group or water rights such as but not limited to: Fox Canyon Groundwater Management Agency, Santa Paula Basin Pumpers Association, Alta Mutual Water Company and Farmer's Irrigation Company.

B. "Projected Demand for Water" shall mean the estimated annual quantity of water required to serve the proposed annexation, development, water service connection or new or intensified land use, as determined by the developer's engineer utilizing the City's current local water use demand factors and

reviewed and approved by the General Manager of the water utility department known as Ventura Water.

Section 22.180.030 Dedication of water rights within City limits.

A. The owner or developer of any parcel of land within the City or being annexed to the City shall dedicate all transferable and exercisable water rights attached to the parcel to the City upon any of the following events:

1. Annexation of the parcel to the City;
2. The granting of any development entitlement by the City for any land use, other than agriculture, upon the parcel, including but not limited to subdivision of the property as evidenced by the filing of a parcel map, tract map, building permit or other development approval which creates a new or intensified land use;
3. The construction or enlargement of any water service connection to the parcel from the City Water Enterprise Fund.

B. In the event that any water rights attached to the parcel have been sold or transferred to anyone other than the City on or after March 7, 1996, the owner or developer of the parcel shall, to the extent feasible as determined by the General Manager of the water utility department known as Ventura Water, obtain at his or her sole expense, equivalent water rights and dedicate those rights to the City.

C. In the event that the water rights serve more land than the land or parcel to be annexed, developed or to receive a City water service connection, the water rights to be dedicated shall be determined by proration on the basis of the historical water usage of the various lands or parcels served. If it is not feasible, in the sole judgment of the General Manager of the water utility department known as Ventura Water, to prorate the water rights on the basis of historical water usage, then the proration shall be made on the basis of the irrigated land areas of the various lands or parcels served.

D. In the event that the water rights are held by an association, water company or agency on behalf of the property owner or developer and that association, water company or agency cannot or will not dedicate the required water rights to the City, the owner or developer of the parcel shall to the extent feasible, in the sole judgment of the General Manager of the water utility department known as Ventura Water, obtain at his or her sole expense equivalent water rights and dedicate those rights to the City.

E. In the event that the dedicated water rights are not sufficient to meet the projected demand for water, including the demand for water needed to serve any remaining agriculture as provided in subsection G. below, by the parcel or in the event that there are no water rights attached to the parcel, or in the event that it is

determined by the General Manager of the water utility department known as Ventura Water that it is not feasible to obtain equivalent water rights as required by subsections A. and D. above, the owner or developer shall pay a water resource in-lieu fee, as established pursuant to Section 22.180.040, to the City based upon that portion of the projected demand for water that is not met by the dedicated water rights.

F. In the event that the dedicated water rights exceed the projected demand for water by the parcel already within the City, a credit shall be issued against the various fees and charges due to the City Water Enterprise Fund under Chapter 22.110 Water Connections, Sec. 22.110.020 "Charges," of the San Buenaventura Municipal Code or, at the City's option, the dedicated water rights required by this chapter shall be prorated to meet the projected demand for water. The credit shall be equal to the water resources in-lieu fee, as established in Section 22.180.040 applicable to that portion of the dedicated water rights in excess of the projected demand for water.

G. In the event that the dedicated water rights are needed to continue to serve agriculture remaining on any undeveloped or residual portion of the land or parcel, including any new agricultural development proposed on such land or parcel, the City shall enter into an agreement with the property owner or developer for the shared use of the dedicated water rights, provided the water is to be used only on such land or parcel and provided the quantity of water to be used and the type of agriculture to be served is reasonable and appropriate. The agreement shall include but not be limited to the amount of water rights available for the undeveloped property and the property owner or developer shall construct and pay for all facilities and pay for all City or third party administrative fees associated with the use.

H. In the event that the dedicated water rights are needed to serve agriculture remaining on such land on an interim basis until such land is converted to nonagricultural use, the City may enter into an agreement with the property owner or developer for the shared use of the dedicated water rights until such time as the agricultural use is terminated. The agreement shall include but not be limited to the amount of water rights available for the undeveloped property and the property owner or developer shall construct and pay for all facilities and pay for all City or third party administrative fees associated with the use.

I. In the event that the dedicated water rights are needed to supply water to a proposed non-potable water distribution system intended to supply water for irrigation purposes to public or private landscaping on the land, the City may enter into an agreement with the property owner or developer for the shared use of the dedicated water rights. The agreement shall include but not be limited to the amount of water rights available for the undeveloped property and the property owner or developer shall construct and pay for all facilities and pay for all City or third party administrative fees associated with the use.

Section 22.180.040 Water resource in-lieu fee imposed.

A. The City Council may establish a schedule of water resource in-lieu fees by resolution, which schedule may include different zones for which the fees may vary based upon the cost of supplemental water supplies in those zones. The fees shall be imposed in accordance with this section. The proceeds of the fees shall be retained in a separate account and shall be used to acquire and develop additional water resources or water rights for use by the City Water Enterprise Fund. Those projects may include, but are not limited to, the purchase of water rights or allocations or projects specified in the City's capital improvement program to the extent not covered by any connection or other capital charges. The fee proceeds may also be used to fund demand side management activities. The General Manager of the Water Utility Department known as Ventura Water, shall calculate the projected water demand pursuant to Section 22.180.020 B. and the amount of the resulting fee. The water resource in-lieu fee shall be in addition to all other fees and charges required by this Chapter or by the municipal code.

B. In the event that a fee resolution has not been adopted, the General Manager of the Water Utility Department known as Ventura Water shall collect a deposit of \$8,000 per acre-foot of projected annual water demand in excess of the water rights dedicated to the City. The deposit shall be applied to the fee upon adoption of a resolution. Any deposited amount in excess of the adopted fee shall be refunded to the person who paid the deposit.

Section 3. CEQA Findings.

EXEMPTION FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council further finds that this Ordinance is exempt under Section 15061(b)3 of Title 14 of the California Code of Regulations (the "State CEQA Guidelines") in that the enactment of this Ordinance merely implements a regulatory process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly. Accordingly, it can be seen with certainty that the enactment of this Ordinance does not have the potential to result in significant effects on the environment. This ordinance is further exempt under Section 15273 of the State CEQA Guidelines.

PASSED and ADOPTED this ____ day of _____ 2013.

Mike Tracy, Mayor

ATTEST:

Cynthia M. Rodriguez, MMC
City Clerk

APPROVED AS TO FORM

By: _____
Ariel Pierre Calonne
City Attorney

DRAFT