

ORDINANCE NO. 2003-2
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
ARMONA COMMUNITY SERVICES DISTRICT
REGARDING ABANDONED SERVICE CONNECTIONS

The Board of Directors of the Armona Community Services District does hereby find:

WHEREAS, the Armona Community Services District ("District") is a California community services district formed and existing under and by virtue of the provisions of the Community Services District Law, codified at Government Code §§ 61000-61800, inclusive, and all acts amendatory thereof and/or supplementary thereto; and

WHEREAS, said Law provides, at Government Code § 61621.5, that the District may by ordinance adopt regulations binding upon all persons to govern the construction and use of its facility and property, including regulations imposing reasonable charges for the use thereof; and

WHEREAS, the District has established capital facilities improvement fees which include water and sewer connection fees, commonly referred to as "connection fees," to provide funds for capital improvements to the District's water and waste water systems made necessary to meet increased capacity demand on the District's water and waste water systems caused by development within the District, as well as increasing water quality compliance costs mandated by State and Federal water quality laws and regulations; and

WHEREAS, included within the District are locations which do not receive water and/or waste water services even though some of the subject locations have existed as separate legal parcels for years or decades; and

WHEREAS, the locations referred to herein include, but are not limited to, vacant lots where houses or structures were removed, in some cases, many years ago, as well as lots with houses or structures thereon where service was discontinued years ago; and

WHEREAS, service by the District's water and waste water systems does not determine existence of a legal parcel; and

WHEREAS, prescription and adverse user do not run against the District; and

WHEREAS, the District's ratepayers pay for all costs of operation and maintenance of the District's water and waste water systems on an ongoing basis through the District's rates; and

WHEREAS, the District has constructed major improvements to its water and waste water systems in the last 15 years, and continues to improve its water and waste water systems on an on-going basis; and

WHEREAS, it is inequitable for the District's ratepayers to pay for the ongoing costs of the District's water and waste water systems attributable to establishment of service at those properties with "abandoned service connections," as defined herein; and

WHEREAS, said abandoned service connections have not paid their attributable share of the ongoing costs of the District's water and waste water systems because monthly rates and charges have not been paid for service at such abandoned service connections; and

WHEREAS, said abandoned service connections paid no service connection fees, or paid connection fees that are not commensurate with the present increased costs of the establishment of service to such connections in terms of capacity, energy, regulatory compliance, and other costs; and

WHEREAS, abandoned service connections should equitably pay service connection fees for establishment of District services.

NOW, THEREFORE, the Board of Directors of the Armona Community Services District hereby enacts as follows:

1. Abandoned Service Connection: Definition. "Abandoned service connection" is defined as a legal parcel existing as of January 1, 2003, located within the geographic service area of the District, that meets any of the following conditions: (i) the location has never received water and waste water service from the District; (ii) service connections to the District's water and waste water systems did not physically exist at the location as of January 1, 2003, and did not physically exist for a minimum of five years prior to January 1, 2003; (iii) service connections to the District's water and waste water systems physically exist at the location but are not operable as of January 1, 2003, including those connections not meeting District standards as of January 1, 2003; (iv) operable service connections to the District's water and waste water systems physically exist at the location but are abandoned by continuous nonuse for a minimum of five years prior to January 1, 2003; or (v) service connections to the District's water and waste water systems are abandoned by continuous nonuse for a minimum of five years at any time after January 1, 2003.

2. Capital Facilities Improvement Fees Payable for Establishment of Service at Properties with Abandoned Service Connections. Establishment of service at an abandoned service connection requires payment of capital facilities improvement fees in accordance with District Ordinance No. 2002-2, and all acts amendatory thereof or supplementary thereto.

3. Appeal. An owner of an abandoned service connection may appeal the requirement to pay capital facilities improvement fees for establishment of service upon written request to the Board and presentation of written or other evidence that the property does not meet the definition of an abandoned service connection. Upon receipt of the written request the Board shall provide the property owner notice and an opportunity for a hearing and shall so notify the property owner in writing of the date, time and place of the hearing. The owner may appear at the hearing through a representative, provided such representative can provide credible evidence of his status as the

owner's representative, as by a letter from the property owner. If the owner does not appear at the hearing, either in person or through the owner's authorized representative(s), the Board may deny the appeal solely on the ground of such non-appearance. At the conclusion of the public hearing, the Board may, for good cause shown by the evidence, which may include property records, District billing or payment records, or other credible, substantial evidence, find and determine that the connection is not abandoned and excuse payment of capital facilities improvement fees.

4. Construction and Interpretation. The adoption of this Ordinance, the existence or non-existence of this Ordinance, and none of the provisions of this Ordinance shall be a reason or among the reasons for any determination by a Court or any other adjudicative forum that all service connections in the District are required to pay capital facilities improvement fees prior to the establishment of service, or for any finding that the Board may not exercise discretion in the application of the terms hereof.

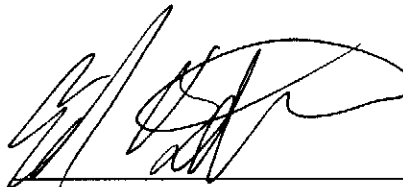
WHEREFORE, this Ordinance was passed and adopted by the Board of Directors of the Armona Community Services District on April 9, 2003, by the following vote:

AYES: Bittner, Maciel, Plooy

NOES: None

ABSENT: Schales, Danielson

ABSTAIN: None



ED BITTNER, PRESIDENT

ATTEST:



JAMES MACIEL, SECRETARY

CERTIFICATE OF SECRETARY

I, James Maciel, the duly appointed and acting Secretary of the Board of Directors of the Armona Community Services District, do hereby certify that the foregoing Ordinance was passed and adopted at a Regular Meeting of the Board of Directors of the Armona Community Services District, duly held at Armona, California, on April 9, 2003.

[DISTRICT SEAL]

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JAMES MACIEL, SECRETARY