EXHIBIT LRP2013-00007:B

ORDINANCE NO._____

AN ORDINANCE AMENDING TITLE 8 OF THE SAN LUIS OBISPO COUNTY CODE, THE HEALTH AND SANITATION ORDINANCE, BY AMENDING CHAPTER 8.91 RELATING TO A PLUMBING FIXTURE RETROFIT UPON SALE ORDINANCE IN THE LOS OSOS GROUNDWATER BASIN

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

SECTION 1: Chapter 8.91 of the Health and Sanitation Ordinance, Title 8 of the County Code, Retrofit of Plumbing Fixtures Upon Sale in the Los Osos Groundwater Basin, is hereby amended as follows:

8.91.010 Purpose.

The board of supervisors does hereby find, determine and declare that overall water use in the Los Osos groundwater basin has surpassed a sustainable capacity:

(a) The consumption of water in the Los Osos groundwater basin has resulted in seawater intrusion into the Los Osos groundwater basin. In response to this threat to groundwater, the community's only fresh potable water source, the board of supervisors has certified a level of severity III for the Los Osos groundwater basin; this is the highest severity level in the county general plan's resource management system.

(b) The purpose of this chapter is to reduce the amount of water being used by residential, commercial and other uses located in the Los Osos groundwater basin. Reduction in water use shall be achieved through retrofitting existing plumbing fixtures with low water consumption plumbing fixtures in existing homes, businesses and institutional buildings upon the sale of any such structure that uses water from the Los Osos groundwater basin.

(c) The community has implemented several successful retrofit programs since 2008 that have reduced the availability of retrofit targets in many areas of the community. As a result, the retrofit-on-sale program should now target older housing within specific areas of the community.

(Ord. 3147 § 1 (part), 2008)

8.91.020 Definitions.

The following words and phrases shall, for the purposes of this chapter, be interpreted as follows:

(a) "Residential" means any private structure suited for or characterized by private residences or residential neighborhoods.

(b) "Commercial" means any structure used for the purpose of, or characterized by commercial business.

(c) "Low consumption plumbing fixtures for residential units" include:

(1) Toilets that are rated at no more than 1.28 gallons per flush (HET);

(2) Showerheads that do not exceed 2.5 gallons per minute;

(3) Aerators on all lavatory sinks that do not exceed one gallon per minute.

(d) "Low consumption plumbing fixtures for commercial units" include:

(1) ~~Waterless u~~Urinals that use no more than ~~zero~~ 1.0 gallon per flush;

(2) Toilets that are rated at no more than 1.28 gallons per flush (HET);

(3) Showerheads that do not exceed 2.5 gallons per minute;

(4) Aerators on all lavatory sinks that do not exceed one gallon per minute.

(e) The Los Osos groundwater basin and the Prohibition Zone are ~~is~~ shown in Figure A as the area within the "Los Osos Groundwater Basin Boundary."

Figure A. Los Osos Groundwater Basin Boundary and Prohibition Zone, not to scale

(f) "Title 8 water conservation certificate" is an acknowledgement from the county of San Luis Obispo department of planning and building that all plumbing fixtures in a structure have been retrofitted in accordance with this chapter.

(g) "Retrofit verification declaration" is provided to the department of planning and building by a licensed plumber or building contractor, or a home inspector certified by the CREIA, ASHI, or ICC. The declaration shall be in a form provided by the department. The completed form is subject to review and approval by the department prior to issuance of a Title 8 water conservation certificate.

(Ord. 3147 § 1 (part), 2008)

8.91.030 Retrofit upon sale.

Retrofit Requirements Upon Change of Real Property Ownership.

(a) All existing residential, commercial, and other buildings that receive water from the Los Osos groundwater basin and were constructed prior to 1994 and are not located in the "Prohibition Zone" shall be retrofitted with low consumption plumbing fixtures at or prior to the time of sale. This chapter shall apply to new escrows or sales agreements initiated after the effective date of the ordinance codified in this chapter.

(b) Responsibility of the Seller. The seller shall be responsible for complying with the requirements of this chapter and for obtaining a "Title 8 water conservation certificate" in compliance with this section prior to the time of sale.

(c) Upon retrofitting of the structure, the seller shall submit evidence of the completed retrofit to the department of planning and building. Such evidence shall consist of a county-provided retrofit verification declaration completed and executed by a licensed plumber, licensed contractor or a home inspector certified by the CREIA, ASHI or ICC. The completed declaration shall be accompanied by any fee adopted by the board of supervisors.

(d) Upon submittal of a retrofit verification declaration to the San Luis Obispo County department of planning and building and county approval of the declaration, the seller shall be issued a "Title 8 water conservation certificate" by the department of planning and building.

(e) The seller shall give written notice to the transferee of the requirements of this chapter prior to the change of ownership. A signed copy of the Title 8 water conservation certificate and a written notice of retrofit requirements shall be included in the transfer documentation.

(f) The seller of a structure that has already been retrofitted with low consumption plumbing fixtures may verify compliance with the department of planning and building and request issuance of a "Title 8 water conservation certificate" by one of the following methods:

(1) Physical inspection of the fixtures by a licensed plumber, licensed building contractor, or a home inspector certified by the CREIA, ASHI or ICC, and

submittal of a retrofit verification declaration to the department of planning and building for review and approval;

(2) Participation in a water purveyors' plumbing fixture rebate program in which documentation of an inspection demonstrates that the retrofit requirements of this chapter have been satisfied; or

(3) Submittal to the department of a previously issued Title 8 water conservation certificate for the parcel changing ownership.

(g) Disposing of Toilets. All toilets that have been removed from structures must be recycled in a legally established recycling facility to complete compliance.~~, or in the case of 1.6 gallons-per-flush toilets, installed in another residential, commercial or other building outside of the Los Osos groundwater basin.~~

(Ord. 3147 § 1 (part), 2008)

8.91.040 Exemptions.

~~The planning director may exempt the following from the provisions of this chapter, and impose reasonable conditions in lieu of full compliance herewith:~~

~~Historic facilities when low consumption plumbing fixtures are not available to match a historic architectural style. The director shall require that sufficient evidence or proof be submitted to substantiate any exemption or acceptance of alternatives~~.

(a) All existing 1.6 gallons-per-flush toilets shall be exempt from the provisions of this chapter.

(b) The planning director may exempt historic facilities from the provisions of this chapter~~,~~ and impose reasonable conditions in lieu of full compliance herewith. The director may exempt facilities from the provisions of this chapter when low consumption plumbing fixtures are not available to match a historic architectural style. The director shall require that sufficient evidence or proof be submitted to substantiate any exemption.

(Ord. 3147 § 1 (part), 2008)

8.91.050 Penalties.

Any seller who violates any provision of this chapter shall be guilty of a misdemeanor pursuant to Section 1.04.010.

SECTION 2: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby declares it would have passed this ordinance and each section, sub-section, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 3: This ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. It shall be published with the names of the Board of Supervisors members voting for and against same, once in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

SECTION 4: The project qualifies for a Categorical Exemption (Class 7) pursuant to CEQA Guidelines Section 15307 because the actions proposed will assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Introduced at a regular meeting of the Board of Supervisors held on the _____ day of _____, 2014, and passed and adopted by the Board of Supervisors of the County of San Luis Obispo, State of California, on the ___ day of _____, 20014, by the following roll call vote, to-wit:

AYES:

NOES:

ABSENT:

_____
Chairman of the Board of Supervisors of the
County of San Luis Obispo, State of
California

ATTEST:

_____
County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis
Obispo, State of California

BY: _____

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Deputy County Counsel

Dated: _____