

ORDINANCE NO. 152

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
IMPOSING AN ANNUAL WATER SUPPLY CHARGE TO FUND
WATER SUPPLY SERVICES, FACILITIES AND ACTIVITIES
NEEDED TO ENSURE SUFFICIENT WATER FOR PRESENT BENEFICIAL
WATER USE IN THE MAIN CALIFORNIA AMERICAN
WATER DISTRIBUTION SYSTEM**

FINDINGS

1. The Monterey Peninsula Water Management District ("District") is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) ("District Law").
2. Pursuant to Section 325 of the District Law, and except as otherwise limited by the District Law, the District has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes.
3. Section 326 of the District Law authorizes the District to fix, revise, and collect rates and charges for the services, facilities, or water furnished by it, and authorizes the District to collect its rates and charges via the tax roll or other billing methods. Section 308 of the District Law authorizes the District, by resolution or ordinance, to fix and collect rates and charges for the providing of any service it is authorized to provide.
4. The District engages in a variety of activities that supply water to properties within the District via a distribution system owned by California American Water (CAW).
5. The District delivers water via the CAW distribution system because shared use of this system is a far more cost-effective means of delivery than construction and operation of a parallel, District-owned, distribution system and no public purpose would be served by imposing rates sufficient to fund duplicative infrastructure.
6. Water made available by District supply activities is beneficially used by the properties served in this manner, and such water, though commingled with water from CAW

13. The District accepted written protests against the Supply Charge pursuant to the procedures established by the Board in its Resolution No. 2012-3. Following the close of public testimony at the Hearing, the Board continued its consideration of the matter to June 19, 2012 to give District staff time to tabulate protests in the manner required by Resolution No. 2012-3.
14. The District received 15,709 raw protests. Of these, 207 lacked required information or were submitted with respect to property clearly outside of the boundaries of the District; 2,114 were duplicates of valid protests; and an additional 3,045 were submitted with respect to parcels not subject to the Supply Charge. Therefore, valid protests were received with respect to 10,343 parcels subject to the Supply Charge. All protests are now public records of the District and have been considered by the Board.
15. 30,509 parcels are subject to the Supply Charge. A majority protest against the Supply Charge would therefore require 15,255 valid written protests. Therefore, a majority protest against the Supply Charge does not exist. Because this Supply Charge is a property-related charge for water service, as that term is defined by law, no election is required pursuant to Article XIII D, § 6(c) of the California Constitution and the District's compliance with Proposition 218 is complete.
16. The rate of the Supply Charge is supported by a Technical Memorandum dated April 12, 2012 prepared by the District's rate-making consultant, Bartle Wells and Associates, ("Technical Memorandum") which has been reviewed by the Board and is available for public inspection in the Office of the District.
17. The Supply Charge will fund only a portion of the District's actual costs to provide water supply services. Therefore, the Supply Charge does not exceed the funds required to provide those services.
18. Supply Charge proceeds will be expended only to fund water supply services and for no other purpose.
19. The Supply Charge is a charge upon real property. The amount of the Supply Charge imposed upon a parcel will not exceed the proportional cost of supply services attributable to the parcel for the reasons stated in the Technical Memorandum and elsewhere in the record of this rate-making.
20. Only parcels that receive water via the segments of the CAW water system that carry District-supplied water are subject to the Supply Charge. Parcels that are not connected to the system via an active meter are not subject to the Supply Charge. Parcels connected

ORDINANCE

Section One: Short Title

This Ordinance shall be known as the 2012 Water Supply Charge Ordinance of the Monterey Peninsula Water Management District.

Section Two: Findings

The Findings above are determined to be true and correct, and are adopted as though fully set forth herein.

Section Three: Purposes

Proceeds of the charge imposed by this Ordinance may only be used to fund District water supply activities, including capital acquisition and operational costs for Aquifer Storage and Recovery (ASR) and Groundwater Replenishment (GWR) purposes, as well as studies related to project(s) necessary to ensure sufficient water is available for present beneficial water use in the main CAW system. In addition to direct costs of the projects, proceeds of this annual water supply charge may also be expended to ensure sufficient water is available for present beneficial use or uses, including water supply management, water demand management, water augmentation program expenses such as planning for, acquiring and/or reserving augmented water supply capacity, including engineering, hydrologic, legal, geologic, financial, and property acquisition, and for reserves to meet the cash-flow needs of the District and to otherwise provide for the cost to provide services for which the charge is imposed.

Section Four: Charge Imposed

The owner of each parcel of real property connected to the main CAW Water Distribution System, excluding the Bishop, Hidden Hills, Ambler, and Toro sub-units (which will not receive the service for which the charge is imposed), shall pay the District an annual water service charge. The amount of the charge on each parcel shall be calculated as set forth in Section 5 of this ordinance. This is a charge by the District to parcels on the CAW system that receive water via the CAW system that is sourced, in whole or in part, from the District's water supply activities. The charge for each fiscal year shall be due and payable on July 1 of that fiscal year. The Board of Directors may, by ordinance or resolution, change the method of collection for the charge by (i) providing that the annual charge be collected in installments over time, (ii) providing that the charge will be collected along with property taxes on the property tax roll, or (iii) providing the charge will be billed by the District or included on the bill of any utility that consents to such inclusion. The District may set penalties for nonpayment as permitted by

Table 2: Water Usage Fee per Unit

Description	Water Usage Fee per Unit	Unit
Small house (less than 1,200 sq ft)	\$24.75	per single family home
Medium house (1,200 to 1,999 sq ft)	\$38.50	per single family home
Medium house (2,000 to 3,999 sq ft)	\$77.00	per single family home
Large house (4,000 sq ft+)	\$154.00	per single family home
Vacant house	50%	Of non-vacant fee
Multifamily Property	\$20.90	per multifamily unit
Business/Govt 1 to 10 employees	\$52.80	per location/each business
Business/Govt 11 to 20 employees	\$105.60	per location/each business
Business/Govt 21 to 30 employees	\$158.40	per location/each business
Rate Increases for Business/Govt	\$52.80	increase per every 10 employees
Hotel/Motel	\$32.17	per room
Bed and Breakfast	\$21.54	per room
Supermarket	\$261.42	per location/each business
Medical Office	\$45.11	per licensed physician
Dental Office	\$61.09	per licensed physician
Rest Home	\$20.03	per bed of licensed capacity
General Hospital	\$118.65	per bed of licensed capacity
Animal Hospital	\$138.98	per location/each business
Restaurant 1 meal/day	\$2.43	per seat
Restaurant 2 meals/day	\$3.79	per seat
Restaurant 3 meals/day	\$7.28	per seat
Restaurant w/bar	\$9.71	per seat
Bar	\$79.91	per location/each business
Nightclub	\$233.45	per location/each business
Takeout Food - small	\$82.39	1 cash register or checkout lane
Takeout Food - medium	\$211.66	2 or 3 cash registers or checkout lanes
Takeout Food - large	\$372.03	4+ cash registers or checkout lanes
Bakery	\$101.81	per location/each business
Theater	\$109.24	per screen
Bowling Center	\$491.59	per location/each business
Gym	\$52.80	per 500 members
Mortuary	\$128.06	per location/each business
School Minimum	\$52.80	per location
School (Grades 0-6)	\$0.91	per student
School (Grades 7- college)	\$1.82	per student
Boarding School	\$23.21	per student
Instructional Facility	\$52.80	per location/each business
Church (0 to 100 members)	\$52.80	per location
Church (over 100 members)	\$105.60	per location
Photo Developer	\$52.80	per location
Laboratory	\$52.80	per 10 employees
Printer	\$52.80	per 10 employees
Service Station	\$52.80	per 10 employees
Auto Painters/Body Shop	\$52.80	per location
Rate Increases for Previous 4 Categories	\$52.80	increase per every 10 employees
Dry Cleaner	\$67.49	per location/each business
Laundromat	\$21.24	per each washing machine
Mobile Home	\$32.17	per living unit
Golf Course/City Parks/Cemeteries/Other Irrigated Area	\$105.60	per acre
Vacant Commercial	\$26.40	per location/each business
Temporarily Suspended (no active meter)	\$0	per location/each business
Special Users (determined individually)	\$52.80	Fee proportional to average business user, not to exceed \$2500.

payment was contested. This provision shall not be construed to relieve any person of the obligation to make full payment of any money due to the District.

C. Class or Representative Claims. No claim may be filed on behalf of a class of claimants, or on behalf of any person other than the person filing the claim, unless the membership of the class is identified with particularity; and unless the verified signature of each member of the class (or the signature of each class member's guardian, executor, conservator, or administrator) is appended to the claim; and that any claim filed on behalf of a class of claimants shall be further limited to persons who have tendered payments under written protest during the 365 days immediately preceding the filing of the class claim.

D. Untimely Claims. No refund of any charge shall be allowed unless the amount paid was tendered together with written protest filed with the District by claimant or by claimant's guardian, executor, conservator. No refund of any charge shall occur for charges paid more than 365 days prior to the date of the claim.

E. Time of Presentation and Receipt. A claim for recovery of any money paid under protest shall be filed in writing with the District by claimant or by claimant's guardian, executor, conservator, or administrator no later than 365 days after the date the payment was made.

F. Notice of Insufficiency. If, the General Manager, or his or her designee, determines that a claim, as presented, fails to comply substantially with the requirements of this chapter, the General Manager or his or her designee may, at any time within 30 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omission therein. Failure of the District to provide notice of insufficiency shall not operate as a waiver of any defenses the District may have based on the sufficiency of the claim.

G. Initial Review. Each claim shall be screened by the General Manager or his or her designee within 30 days after the claim has been determined to be sufficient. At this initial review and without conducting a hearing, the General Manager or his or her designee may act to adjust the charge in full or in part, as warranted, upon determining facts support the adjustment under the standards of subparagraph B.(5) of this section.

H. Administrative Hearing. For those circumstances where the Initial Review does not resolve the claim, the General Manager or his or her designee shall convene a hearing, following 15 days written notice to the claimant, to review facts and issues supporting the claim. After the hearing, the General Manager shall take the matter under submission and thereafter render a written decision, based on substantial evidence presented at the hearing, to adjust the charge in full or in part, or to deny the claim. Written notice of this decision shall be delivered to the claimant.

the same manner as taxes and assessments are so collected upon such real property in accord with District law. In addition, the charge imposed by this ordinance, together with penalties and interest at the legal rate thereon, constitute a debt owed to the District by the owner and occupants, jointly and severally, of the property to which the service is provided and the District may sue on that debt in any court of competent jurisdiction. Remedies for collection and enforcement are cumulative, and may be pursued alternatively or consecutively by the General Manager. The District may, from time to time, adopt by resolution or ordinance such other penalties and delinquency collection mechanisms allowed by law.

Section Eight: Publication and Application

This Ordinance shall not cause amendment or republication of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This Ordinance shall be read in conjunction with and complement those provisions of the District's Rules and Regulations. All definitions used in the District Rules and Regulations shall apply to this Ordinance.

Section Nine: Effective Date; Review Requirement; Sunset

This Ordinance shall take effect at 12:01 a.m. on July 1, 2012. This Ordinance shall not have a sunset date, provided however, that charges set by this Ordinance shall not be collected to the extent proceeds exceed funds required to achieve the Purposes of this Ordinance, as set forth in Section Three or as described in the Findings referenced in Section Two.

So long as this annual water supply charge is collected, the Board of Directors shall hold a public hearing each calendar year in connection with review of the annual District budget. At that time, the Board shall review amounts collected and expended in relation to the purposes for which the charge is imposed. The District shall require the annual water supply charge to sunset in full or in part unless the Board determines that the purpose of the charge is still required, and the amount of the charge is still appropriate and less than the proportionate cost of the service attributable to each parcel on which the charge is imposed. If the purpose is fully accomplished, the charge shall be required to sunset. If the purpose for the charge is determined to continue, but amounts needed to fund that purpose are decreased, the charge shall be reduced to that lesser amount. In the event aggregate annual charge collections are insufficient to fund all appropriate purposes to which the charge may be expended, the Board may determine, in its sole discretion, the extent to which any purpose or purposes shall be funded provided that the charge does not exceed the proportionate cost of the service attributable to each parcel on which the charge is imposed.

Section Ten: Delegation