

## RULE 24 - CALCULATION OF WATER USE CAPACITY AND CAPACITY FEES

### A. RESIDENTIAL CALCULATION OF WATER USE CAPACITY

Residential Water Use Capacity shall be calculated using a fixture unit methodology whereby each water fixture is assigned a fixture unit value that corresponds to its approximate annual Water Use Capacity. Residential applications shall be reviewed to determine if there is an increase in fixture units as a result of the proposed Project.

#### 1. Methodology for Determining Water Use Capacity

The following process shall be used to determine if there is an increase in Water Use Capacity:

- a. The General Manager shall estimate Water Use Capacity of the proposed Project using the fixture unit values and outdoor water uses calculation from Table 1: Residential Fixture Unit Count Values.
- b. If the application includes a Residential water fixture that is not specifically exempt from the Residential Permit requirements, and no factor is shown on Table 1: Residential Fixture Unit Count Values, for a proposed water fixture, the General Manager shall research the projected annual consumption of the fixture and shall recommend a fixture unit count value to the Board that corresponds to the Estimated Annual Water Use Capacity of the fixture. Table 1 shall subsequently be amended by Resolution of the Board of Directors to assign a value to the new fixture.
- c. Using Table 1: Residential Fixture Unit Count Values, the General Manager shall compare the pre-Project fixture unit count against the fixture unit count shown on the Construction Plans submitted with the Water Release Form and Water Permit application. Pre-Project Estimated Annual Water Use Capacity shall be verified by inspection.
- d. The General Manager shall reduce the Estimated Annual Water Use Capacity by any verified Water Use Credit or On-Site Water Credit applicable to the application as shown on the Water Release Form and Water Permit application and shall determine the Adjusted Water Use Capacity of the proposed Project.
- e. Based upon the review conducted in Rule 24-A-1, the General Manager shall determine if Project will result in a positive, neutral or reduced Water Use Capacity on the Site.
  - (1) An increase in Capacity (Intensification of Use) shall cause the calculation and collection of a Capacity Fee prior to issuance of a Water Permit.

- (2) No Capacity Fee shall be assessed when there is no increase in Water Use Capacity.
- (3) A reduction in Water Use Capacity shall result in a Water Use Credit upon verification that the former use has been permanently abandoned. This credit shall be established in conformance with Rule 25.5.

**TABLE 1: RESIDENTIAL FIXTURE UNIT COUNT VALUES**

	Water Fixture Description	Fixture Unit Value
1	Washbasin (lavatory sink), each	1
2	Two Washbasins in the Master Bathroom	1
3	Toilet, Ultra Low Flush (1.6 gallons per flush)	1.8
4	Toilet, High Efficiency (HET) (1.3 gallons maximum)	1.3
5	Toilet, Ultra High Efficiency (UHET) (0.8 gallon maximum)	0.8
6	Urinal, (Pint (0.125 gallon maximum)	0.1
7	Urinal, Zero Water Consumption	0
8	Bathtub, (may be Large with Showerhead above) & Separate Shower in the Master Bathroom	3
9	Bathtub, Large (may have Showerhead above)	3
10	Bathtub, Standard (may have Showerhead above) or Shower Stall (one Showerhead)	2
11	Shower, each additional fixture (including additional Showerheads, Body Spray Nozzles, etc.)	2
12	Shower System, Rain Bars, or Custom Shower (varies according to specifications)	2
13	Kitchen Sink (including optional adjacent Dishwasher) <sup>1</sup>	2
14	Kitchen Sink with adjacent High Efficiency Dishwasher (5.8 gallons maximum per cycle)	1.5
15	Dishwasher, each additional (including optional adjacent sink)	2
16	Dishwasher, High Efficiency, each additional (including optional adjacent sink) [5.8 gallons maximum per cycle]	1.5
17	Laundry Sink/Utility Sink (debit/Capacity Fee applies to only one Laundry/Utility Sink per Residential Site)	2
18	Clothes Washer	2
19	Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	1
20	Bidet	2
21	Bar Sink	1
22	Entertainment Sink	1
23	Vegetable Sink	1
24	Swimming Pool (each 100 square-feet of pool surface area)	1
25	For all new Connections -- Refer to Rule 24-A-5, Exterior Residential Water Demand Calculations.	

<sup>1</sup>When a Kitchen Sink exists without the benefit of a Dishwasher, a Dishwasher may be added without a Water Permit.

*Table Amended by Resolution 2009-11 (8/17/2009); Ordinance No. 140 (11/16/2009); Resolution 2009-13 (12/14/2009); Resolution 2010-15 (12/13/2010); Ordinance No. 151 (11/19/2012); Ordinance No. 156 (11/18/2013); Resolution 2016-04 (2/17/2016)*

2. Exempt Residential Water Fixtures

The following water fixtures shall be exempt from the Residential Permit requirements and shall have no fixture unit value: Portable Water Fixtures, fountains, ponds, hot tub/spas, drinking fountains, pot fillers, darkroom sinks, outdoor showers, outdoor sinks, hose bibs, pet/livestock wash racks and water troughs, and multiple Utility Sinks (more than one per Site).

3. Second Bathroom Addition

A distinctive Water Permit protocol shall apply to any Residential application that proposes to add a second Bathroom to an existing Single-Family Dwelling on a single-family Residential Site that, prior to the application, has less than two Bathrooms.

- a. The second Bathroom protocol shall be limited, and shall apply only to the following water appliances if they are installed in a new second Bathroom as an expansion of an existing Single-Family Dwelling: (a) a single toilet, and (b) a single Standard Bathtub, or single Shower Stall, or a single standard tub-shower combination, and (c) one or two Washbasins.
- b. The second Bathroom protocol shall further apply on a pro rata basis to any Residential application that proposes to add one or more of the referenced water appliances to an existing second Bathroom which lacks that same appliance within an existing single-family Residential Site and, prior to the application, has less than two full Bathrooms.
- c. The second Bathroom protocol shall apply only to a Single-Family Dwelling on a single-family Residential Site that had a final building permit as of May 16, 2001.
- d. The second Bathroom protocol shall not apply to any Multi-Family Dwelling or Multi-Family Residential Site as defined by these Rules and Regulations.
- e. A valid Water Use Credit for the permanent abandonment of a one Bathroom Single-Family Dwelling on a single-family Residential Site issued prior to May 16, 2001 shall be regarded as an existing Single-Family Dwelling for 120 months following demolition and shall allow the reconstruction of a single-family Dwelling with the addition of the water fixtures allowed by this provision as long as the credit is valid.
- f. Water fixtures installed pursuant to this provision shall be installed within the existing Single-Family Dwelling.

- g. Under this second Bathroom protocol, the General Manager shall not debit the Jurisdiction's Allocation for the installation of select water fixtures in the second Bathroom.
- h. Capacity Fees shall nonetheless be collected for the addition of fixture units in the second Bathroom.
- i. No On-Site, off-site or transfer of credit shall be granted for removal or retrofit of any fixture added pursuant to this second Bathroom protocol.
- j. Use of the second Bathroom protocol is voluntary. Any property installing a second Bathroom pursuant to this provision shall be limited to two Bathrooms unless the second Bathroom is permitted by debit to a Jurisdiction's Allocation. A Notice Of The Limitation Of Use Of Water On A Property shall be recorded on the real property as a condition of the Water Permit.
- k. As a condition to the issuance of any Permit pursuant to this rule, each property owner shall authorize the District to access and use water records related to the past, present and future use of water on the Site for a period of sixty (60) months prior to and following the date the Permit is issued.
- l. The provisions of this second Bathroom protocol shall take precedence and supersede any contrary provision of the Water Management District Rules and Regulations.

4. Master Bathroom Fixture Unit Accounting

- a. All fixtures utilizing a Master Bathroom fixture unit value as shown in Table 1: Residential Fixture Unit Count Values shall occur in the same Bathroom, and that Bathroom shall be designated as the "Master Bathroom." Each Dwelling Unit shall have no more than one Master Bathroom.
- b. The Master Bathroom fixture unit value shall not apply to second Bathrooms utilizing the second Bathroom protocol.

5. Exterior Residential Water Demand Calculations

- a. Sites not required to prepare a Landscape plan by either the Jurisdiction or the District. For all new Connections on Sites not required to prepare a Landscape plan by either the Jurisdiction or the District, the Exterior Water Demand Calculation shall be 50 percent of the interior fixture unit value.

- b. Sites required to prepare a Landscape plan by either the Jurisdiction or the District. For all new Connections on Sites required to prepare a Landscaping plan by either the Jurisdiction or the District, the Exterior Water Demand Calculation shall be the Estimated Total Water Use plus 0.01 Acre-Foot. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit.
- c. Sites with Jurisdiction Landscaping Restrictions. For all new Connections on Sites where native Landscaping is a requirement of and enforced by the Jurisdiction, the Exterior Water Demand Calculation shall be the Estimated Total Water Use plus 0.01 Acre-Foot. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit. The native Landscaping requirement shall be a recorded covenant on the title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that any change of Landscaping may constitute an Intensification of Use which may result in collection of additional Capacity Fees and debits to a Jurisdiction's Allocation or Water Entitlement.
- d. Sites utilizing rainwater storage as a component in an Irrigation System. For all new Connections on Sites where rainwater storage is included as a source of water supply for an Irrigation System, the Estimated Total Water Use as determined by the Landscaping plan shall be reduced by the available Rainwater Harvesting Capacity. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit. An additional 0.01 Acre-Foot of water from the Water Distribution System shall be added for outdoor water uses other than irrigation.

Sites utilizing rainwater storage as a component in an Irrigation System shall have Landscape water use restricted by a recorded covenant on the title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that failure to maintain and utilize the rainwater storage component of the Irrigation System shall constitute an Intensification of Use which may result in collection of additional Capacity Fees and debits to a Jurisdiction's Allocation or Water Entitlement and/or other enforcement actions.

- 6. Calculating Adjusted Water Use Capacity
  - a. Each fixture unit shall have a value of 0.01 Acre-Foot of water.
  - b. Water use calculations shall be rounded to the third decimal place.

**B. NON-RESIDENTIAL CALCULATION OF WATER USE CAPACITY**

Non-Residential Water Use Capacity shall be calculated using Table 2: Non-Residential Water Use Factors. Each Non-Residential use shall be assigned a factor that when multiplied by a specified measurement shown on Table 2 (i.e., square-footage, number of rooms/seats, etc.) results in an estimate of the approximate annual Water Use Capacity in Acre-Feet. Non-Residential applications shall be reviewed to determine if there is an increase in water demand as a result of the proposed Project. Amendments to Table 2 shall be made by Resolution of the Board of Directors.

1. Methodology for Determining Water Use Capacity

The following process shall be used to determine if there is an increase in Water Use Capacity:

- a. The General Manager shall estimate Water Use Capacity of the proposed Project using the Water Use Factors from Table 2: Non-Residential Water Use Factors.
  - (1) New Construction: When the Non-Residential Water Use Factor is based on a square-footage factor, the entire square-footage shall be applied to the factor for construction of a new building.
  - (2) Tenant Improvements: When the Non-Residential Water Use Factor is based on a square-footage for a Tenant Improvement, the usable square-footage shall be applied to the factor.
- b. When a Non-Residential Project proposes two or more of the uses set forth in Table 2, each proposed use shall be subject to a separate calculation. By way of example, a motel/restaurant would be subject to both the motel use by unit and the restaurant use by seat calculation. Similarly, a gas station with a retail facility would be subject to both the gas station use by pump and the retail use by square-footage. Where a proposed use may be designated as more than one category, the category which most accurately depicts projected water use shall be selected or the uses shall be calculated based on the square-footage or other factor for each area in which the use occurs. When the proposed use appears to fall into more than one category, the higher intensity use category shall be chosen.
- c. For New Construction on Vacant Lots, the General Manager shall add the quantity of water determined to be the exterior water demand based on the ETWU to the total Estimated Annual Water Use Capacity determined in 24-B-2.

- d. If the application includes a Non-Residential use that is not identical to or similar to those uses shown on Table 2: Non-Residential Water Use Factors, the General Manager shall research the projected annual consumption of the use and shall recommend a value to the Board that corresponds to the Estimated Annual Water Use Capacity.
- e. The General Manager shall compare the pre-Project Estimated Annual Water Use Capacity against the Estimated Annual Water Use Capacity shown on the Construction Plans submitted with the Water Release Form and Water Permit application. Pre-Project Estimated Annual Water Use Capacity may be verified by inspection.
- f. The General Manager shall reduce the Estimated Annual Water Use Capacity by any verified Water Use Credit or On-Site Water Credit applicable to the application as shown on the Water Release Form and Water Permit application and shall determine the Adjusted Water Use Capacity of the proposed project.
- g. Based upon the review conducted in 24-B-1-f, the General Manager shall determine if the Project will result in a positive, neutral or reduced Water Use Capacity on the Site.
  - (1) An increase in Capacity (Intensification of Use) shall cause the calculation and collection of a Capacity Fee prior to issuance of a Water Permit.
  - (2) No Capacity Fee shall be assessed when there is no increase in Water Use Capacity.
  - (3) A reduction in Water Use Capacity shall result in a Water Credit upon verification that the former use has been abandoned. This credit shall be established in conformance with Rule 25.5.
- h. Projects at Public School District Sites shall be considered to have a zero Adjusted Water Use Capacity when the entire Public School District Site meets or exceeds Rule 143 Water Efficiency Standards for Existing Non-Residential Uses.
- i. A Restaurant's Water Use Capacity shall be determined by the maximum Interior Restaurant Seat count authorized by the Jurisdiction and District. Exterior Restaurant Seats may be maintained for al fresco dining without a requirement for a new or amended Water Permit provided the maximum number of Exterior Restaurant Seats does not exceed one-half the number of authorized Interior Restaurant Seats (the "standard exterior seat allowance"). Exterior Restaurant Seating not in compliance with this paragraph shall require a new or amended Water Permit.



**TABLE 2: NON-RESIDENTIAL WATER USE FACTORS**

**Group I**      **0.00007 AF/SF**

Auto Uses	Retail	Warehouse	Dental Clinic	Office	Bank	Supermarket
Church	Nail Salon	Family Grocery	Medical Clinic	Wine Tasting Room	Fast Photo	Convenience Store
Dry Cleaner (No On-Site Laundry)			Veterinary Clinic	School	Gym	

**Group II**      **0.0002 AF/SF**

Users in this category prepare and sell food/beverages that are primarily provided to customers on disposable tableware. Food with high moisture content and liquid food may be served on reusable tableware. Pizza must be served on reusable platters or on disposable plates. Glassware may be used to serve beverages.

Bakery	Pizza	Coffee House	Ice Cream Shop	Dry Cleaner (On-Site Laundry)
Catering	Deli	Bistro	Sandwich Shop	

**Group III**

Assisted Living (more than 6 beds) <sup>1</sup>	0.085 AF/Bed
Beauty Shop/Dog Grooming	0.0567 AF/Station
Child/Dependent Adult Day Care	0.0072 AF/Person
Dormitory <sup>2</sup>	0.040 AF/Room
Laundromat	0.2 AF/Machine
Meeting Hall/Banquet Room	0.00053 AF/SF
Motel/Hotel/Bed & Breakfast	0.1 AF/Room
w/Large Bathtub (Add to room factor)	0.03 AF/Tub
Irrigated Areas beyond ten feet of any building	ETWU
Plant Nursery	0.00009 AF/SF Land Area
Public Toilet	0.058 AF/Toilet
Public Urinal	0.036 AF/Urinal
Zero Water Consumption Urinal	No Value
Restaurant (including Bar/Brewpub Seats)	0.02 AF/Interior Restaurant Seat
Exterior Restaurant Seats above the “Standard Exterior Seat Allowance” <sup>3</sup>	0.01 AF/Exterior Restaurant Seat
Exterior Restaurant Seats within the “Standard Exterior Seat Allowance”	No Value
Restaurant (24-Hour and Fast Food)	0.038 AF/Interior Restaurant Seat
Self-Storage	0.0008 AF/Storage Unit
Skilled Nursing/Alzheimer’s Care	0.12 AF/Bed
Spa	0.05 AF/Spa
Swimming Pool	0.02 AF/100 SF of Surface Area
Theater	0.0012 AF/Seat

**Group IV - MODIFIED NON-RESIDENTIAL USES**

Users listed in this category have reduced water Capacity from the types of uses listed in Groups I-III and have received a Water Use Credit for modifications. Please inquire for specific property information.

All New Connections: Refer to Rule 24-B, Exterior Non-Residential Water Demand Calculations

Notes: Any Non-Residential water use which cannot be characterized by one of the use categories set forth in Table 2 shall be designated as “other” and assigned a factor which has a positive correlation to the anticipated Water use Capacity for that Site.

<sup>1</sup> Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.

<sup>2</sup> Dormitory water use at educational facilities is a Residential use, although the factor is shown on Table 2

<sup>3</sup> See Rule 24-B-1 and Rule 25.5 for information about the “Standard Exterior Seat Allowance”.

2. Exterior Non-Residential Water Demand Calculations

For all new Connections on Non-Residential and Mixed Use Sites, the Exterior Water Demand Calculation shall be the Estimated Total Water Use.

For all new Connections on Sites where rainwater storage is included as a source of water supply for an Irrigation System, the Estimated Total Water Use as determined by the Landscaping plan shall be reduced by the available Rainwater Harvesting Capacity. Sites utilizing rainwater storage as a component in an Irrigation System shall have Landscape water use restricted by a recorded covenant on the title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that failure to maintain and utilize the rainwater storage component of the Irrigation System shall constitute an Intensification of Use which may result in collection of additional Capacity Fees and debits to a Jurisdiction's Allocation or Water Entitlement and/or other enforcement actions. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit.

3. Calculating Adjusted Water Use Capacity

Water use calculations shall be rounded to the third decimal place.

**C. WATER SUPPLY COST COMPONENT**

The water supply cost component used as a monetary multiplier in each Capacity Fee calculation required by this rule shall be \$10,623.20. This water supply cost component shall be adjusted on July 1st of each year beginning in July, 1985, to include the annual increase or decrease of the April Consumer Price Index (CPI), all items, for San Francisco/Oakland, as promulgated by the U.S. Department of Labor Bureau of Statistics. The adjusted multiplier shall apply to each Water Permit application received on or after July 1st of each year. Table 3: Capacity Fee History shall be updated annually by Resolution of the Board to reflect the current year's Capacity Fee.

**TABLE 3: CAPACITY FEE HISTORY**

<b>YEAR</b>	<b>CAPACITY FEE</b>
1985	\$10,623.20
1985-86	\$11,133.00
1986-87	\$11,433.59
1987-88	\$11,890.93
1988-89	\$12,295.22
1989-90	\$12,983.75
1990-91	\$13,529.07
1991-92	\$14,056.70
1992-93	\$14,661.00
1993-94	\$15,202.00
1994-95	\$15,325.00
1995-96	\$15,692.00
1996-97	\$15,960.00
1997-98	\$16,551.00
1998-99	\$17,048.00
1999-2000	\$17,832.00
2000-01	\$18,492.00
2001-02	\$19,565.00
2002-03	\$19,976.00
2003-04	\$20,415.00
2004-05	\$20,517.00
2005-06	\$20,948.00
2006-07	\$21,618.00
2007-08	\$22,331.00
2008-09	\$22,979.00
2009-10	\$23,163.00
2010-11	\$23,567.00
2011-12	\$24,227.00
2012-13	\$24,735.00
2013-14	\$25,328.00
2014-15	\$26,037.00
2015-16	\$26,661.00

*Table added by Ordinance No. 125 (9/18/2006); amended by Ordinance No. 145 (9/20/2010); Resolution 2014-19 (12/15/2014); Resolution No. 2015-20 (11/16/2015)*

**D. CALCULATION OF CAPACITY FEES**

The Capacity Fee paid for a Water Permit shall be determined by multiplying the Adjusted Water Use Capacity by the current Capacity Fee. This charge shall be applied to each application for a Water Permit as follows:

1. Projects served by the Main California American Water Company System and Seaside Municipal Water Company shall pay 100 percent of the final calculation.
2. All other Water Distribution Systems including private Wells and other Water Distribution Systems owned and/or operated by California American Water Company outside of the main system shall pay 18.67 percent of the final calculation.

**E. ADJUSTMENT OF CALCULATIONS WHERE SPECIAL CIRCUMSTANCES EXIST**

1. The General Manager may reduce (or increase) the Adjusted Water Use Capacity when Special Circumstances exist with respect to the anticipated water consumption resulting from that Permit. Special Circumstances shall be deemed to exist in the following circumstances:
  - a. After project completion and verification that Sub-potable Water or untreated Well water is the exclusive supply for all exterior uses, the General Manager may make a proportional adjustment for the final Adjusted Water Use Capacity and shall refund that portion of the Capacity Fee and the portion of water debited from an Allocation or Water Entitlement.
  - b. Projects that utilize water in conjunction with a manufacturing process.
  - c. Non-Residential projects owned by a Public entity.
2. The preliminary Estimated Annual Water Use Capacity Adjustment shall operate to exact a Capacity Fee as it relates to the increment of water which is projected to be available to and subject to use by the Applicant as a function of the Connection or the use of water. In the absence of a comparable water use factor on Table 2, the General Manager may make this adjustment based upon projected use figures supported by historical use or other relevant documentation. In the absence of Special Circumstances, calculation of the Estimated Annual Water Use Capacity shall be made by use of Non-Residential Water Use Factors shown on Table 2.
3. The General Manager shall be granted authority to factor Adjusted Water Use Capacity and Capacity Fees for Industrial and Public Projects based upon the actual average annual water use record following 60 months of occupancy and

use without the necessity of a hearing before the Board of Directors. The process shall require payment of an estimated Capacity Fee and corresponding Allocation or Water Entitlement debit. The final Capacity Fee and corresponding Allocation or Water Entitlement debit shall be adjusted upon the actual annual water use record for that Connection.

4. For all situations where the General Manager finds Special Circumstances with Substantial Uncertainty exist regarding the Estimated Annual Water Use Capacity proposed by the permit Applicant, the Board shall consider approving a Water Permit upon payment of an estimated Capacity Fee and corresponding Allocation or Water Entitlement debit. The final Capacity Fee and corresponding Allocation or Water Entitlement debit shall be adjusted upon the actual average annual water use record for that Connection.
5. This Rule shall not apply where a single meter supplies more than one water User.
6. All Water Permits issued with a finding of Special Circumstances shall be subject to the following conditions:
  - a. A deed restriction listing the conditions of the Permit shall be recorded on the property prior to issuance of a Water Permit.
  - b. By written communication, the Jurisdiction shall authorize the District to issue a Water Permit based on a finding of Special Circumstances consistent with CEQA compliance for the approved Project.
  - c. The Jurisdiction shall acknowledge in writing to the District that annual average water use above the preliminary Estimated Annual Water Use Capacity shall either result in a debit to its Allocation or shall require additional action to reduce or offset water use as authorized by the District Board.
  - d. Approval of Special Circumstances with Substantial Uncertainty is valid for thirty-six (36) months. The project shall be completed within thirty-six (36) months of District approval. One extension of time for twelve (12) months will be granted by the General Manager upon evidence of due diligence by the Applicant.
  - e. The Project shall be exclusively equipped with all reasonable conservation measures as determined by the General Manager.
  - f. The property owner shall agree to allow public access to water consumption records for the life of the Project. Access shall be authorized by recordation of the appropriate deed restriction.

- g. A Landscape Documentation Package, shall be included with the Water Permit application.
  - h. Prior to issuance of a Water Permit, the Water Permit Applicant shall submit Capacity Fees and processing fees as outlined in Rule 24 and Rule 60.
  - i. A water meter shall be installed to monitor exterior water use, apart from any interior use. District staff shall have access to the water meters and consumption reports upon reasonable request.
  - j. The property owner or his agent shall annually complete and submit a Special Circumstances Review Form and applicable attachments to the District by February 1. The Special Circumstances Review Form shall require the property owner to provide information about the Project's annual water use and practices, copies of the past year's water bills, information about the performance of any special appliances, and other information useful in reviewing Project-related water demand. The Special Circumstances Review Form shall be submitted each year during construction and for ten years following full occupancy after completion of the Project.
  - k. Water use will be reviewed annually after occupancy. If actual water use exceeds the preliminary Water Use Capacity estimate during any annual review, the District will debit the Jurisdiction's Allocation for the difference. At the end of the monitoring period, if the average annual water use exceeds the preliminary Water Use Capacity estimate, the District will determine whether the Jurisdiction shall transfer some of its Allocation to the Project, or whether the Applicant shall pay the cost of District-approved water conservation projects within the District or on the Project Site to establish Water Use Credits to offset the increased increment of water needed by the Project.
  - l. The Applicant and any successor in interest to the Water Permit shall enter into an indemnification agreement with the District, whereby the Applicant agrees to indemnify, defend and hold harmless the District from any and all legal and financial responsibility that may arise in connection with approval of the application, including but not limited to attorney's fees and costs that the District may incur.
7. The Board shall specify the appropriate number of years to monitor actual annual water use when it finds Special Circumstances with Substantial Uncertainty exist.
  8. In all applications where evidence does not support the finding that Special Circumstances with Substantial Uncertainty exist regarding a Project's Water Use Capacity, it shall be presumed that the Non-Residential Water Use Factors as shown on Table 2 apply to the Permit.

9. Determinations of the General Manager pursuant to this Rule may be appealed to the Board.

**F. CAPACITY FEE REFUNDS**

1. The Capacity Fee paid for a Water Permit under these Rules and Regulations shall be a fee retained by the District in consideration of, and as reimbursement for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District.
2. If a Project, as built, eliminates all or a portion of the Adjusted Water Use Capacity upon which the Water Permit was originally calculated, a refund of that portion of the Capacity Fee may occur.
3. Refunds of Capacity Fees shall occur if the Permit is abandoned prior to construction.
4. Refunds will only occur if a reduction in the Water Use Capacity is documented, or for abandoned Projects, if the Applicant has permanently removed the Water Meter and canceled the building permit.
5. Requests for refunds shall be in writing, and shall include the Water Permit number and the reason a refund is requested. Refunds are subject to fees under Rule 60.
6. All refunds shall be made to the then-current titleholder of the real property to which the Water Permit was issued.
7. Refunds requested for Capacity Fees paid for a Conditional Water Permit shall be processed under the following time lines:
  - a. Refunds of less than fifty thousand dollars (\$50,000) shall be processed within thirty (30) days;
  - b. Refunds between fifty thousand dollars (\$50,000) and one hundred thousand dollars (\$100,000) shall be processed within forty-five (45) days;
  - c. Refunds over one hundred thousand dollars (\$100,000) shall be processed within sixty (60) days.

**G. CAPACITY FEE FUND ACCOUNTING**

1. The District shall maintain separate accounts in its general fund for Capacity Fees received. Those separate fund accounts shall be maintained and designated

as Capacity Fee accounts “A” and “B”. Account “A” shall receive 18.67% of all Capacity Fees collected. Account “B” shall receive 81.33% of all Capacity Fees collected. The proceeds of any connection surcharge shall be transferred to the District’s general fund, without restriction.

2. Capacity Fee funds shall be expended from Capacity Fee accounts “A” and “B” for the sole purpose of planning for, acquiring and/or reserving augmented water supply capacity for District water distribution facilities. It is recognized that such purposes include engineering, hydrologic, geologic, fishery, appraisal, financial, and property acquisition endeavors. Capacity Fee funds may further be used to acquire, maintain, and/or reserve capacity in existing water distribution facilities existing within the District.

#### **H. PERMIT FEE PAYMENT PLANS**

1. Except as may be required by operation of law, or as approved by the Board of Directors on a case-by-case basis pursuant to this Rule, the District shall not authorize a payment plan for fees and charges due for the issuance of a Water Permit. This means that no Permit will be issued by the District unless all required fees and charges have first been paid in full to the District. In any circumstance where a Permit has been issued on less than full payment of all fees and charges due from that Parcel, that Permit shall immediately be Suspended and thereafter Revoked. Revocation of a Water Permit shall cause removal or limitation of water service to that Connection.
2. Notwithstanding any provision of this Rule, the Board, on a case-by-case basis, may authorize delayed payment for Projects which are solely undertaken by California Non-Profit Public Benefit Corporations provided each such plan shall ensure, by recorded deed restriction which includes the consent of each property owner, that all fees and charges due for the issuance of a Water Permit, together with deferred interest at the rate to be set by the Board, shall be paid in full in the event Project ownership or occupancy is transferred to any entity other than a California Non-Profit Public Benefit Corporation. This provision is intended for use only in the presence of a substantial financial hardship to the Project proponent such that the development of the Project would be jeopardized by the present assessment of the full fees and charges due for the issuance of a Water Permit.

*Rule added by Ordinance No. 8 (1/14/81); amended by Ordinance No. 9 (2/14/83); Ordinance No. 17 (9/24/84); Ordinance No. 18 (11/12/84); Ordinance No. 20 (12/10/84); Ordinance No. 21 (3/11/85); Ordinance No. 26 (9/8/86); Ordinance No. 33 (3/14/88); Ordinance No. 34 (5/9/88); Ordinance No. 40 (4/10/89); Ordinance No. 60 (6/15/92); Ordinance No. 71 (12/20/93); Ordinance No. 76 (5/15/95); Ordinance No. 80 (11/20/95); Ordinance No. 98 (4/16/2001); Ordinance No. 111 (1/29/2004); Ordinance No. 114 (5/17/2004); Ordinance No. 125 (9/18/2006); Ordinance No. 145 (9/20/2010); Ordinance No. 157 (12/9/2013); Ordinance No. 162 (8/18/2014); Ordinance No. 164 (4/20/2015); Ordinance No. 170 (5/16/2016).*



