

**ORDINANCE NO. 20**

**AN URGENCY ORDINANCE OF THE BOARD OF DIRECTORS OF  
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
ESTABLISHING INTERIM CONNECTION CHARGES**

The District Board makes the following findings of fact in support of its urgency action on Ordinance No. 20.

**Water Management**

1. The California Legislature has declared that there is a need to augment the supply of potable water on the Monterey Peninsula by the integrated management of ground and surface water resources;

2. The California Legislature has charged the Monterey Peninsula Water Management District with responsibility for the integrated management of water resources and problems affecting the Monterey Peninsula and the Carmel River basin;

3. Growth projections conducted by the Monterey Peninsula Water Management District indicate that the current supply of potable water available to water distribution systems serving the Monterey Peninsula will not be sufficient to provide for future domestic and municipal use;

4. The Monterey Peninsula has a need to augment the future supply of potable water available for use to the area;

5. The California Public Utilities Commission on May 30, 1973 adopted decision No. 81443 which prohibited the setting of new mains or meters in the Monterey Division of the Cal Am Water Company based on the P.U.C. staff engineer's determination that "the normal demand for water to serve even just the present number

of customers in the Monterey Peninsula Division exceeds the present average safe yield of Cal Am's three principal sources of supply." This moratorium was lifted on August 8, 1978 with the adoption of decision No. 89195 in which the Commission mandated that additional water supply be developed for the Monterey Peninsula. This same Commission decision recognized the Monterey Peninsula Water Management District as "the appropriate public agency to be concerned with such matter as the solution to the development of supplemental long term water supply."

#### **Allocations**

6. The Monterey Peninsula Water Management District has implemented a system for the allocation of unutilized potable water supplies among the various cities and county areas within the largest water distribution system in the District, and has established limits upon the amount of potable water which may be delivered by each water distribution system in the District;

7. The Monterey Peninsula Water Management District, acting pursuant to Section 363 of its enabling statute and in recognition of California Public Utilities Commission decision No. 89195, has allowed District water distribution systems to add service connections and to expand their service areas, and by such action has reserved capacity and has made a commitment to such new water users to provide them with potable water and service facilities;

8. The Monterey Peninsula Water Management District has distinguished residential and/or domestic use of potable water from commercial and/or industrial uses and has promulgated differential charges and/or fees for such uses to encourage proper

water use, to promote conservation goals, and to preserve societal values.

9. The Monterey Peninsula Water Management District finds that a general positive correlation exists between construction value and the potential use (demand) of District potable water supplies resulting from new or intensified development. Residential construction value correlates to house size, residential occupancy, and number of both internal and external water fixtures; each factor increases water consumption and system demand. Commercial and industrial construction value correlates to the size of the structure, the number of employees, the number of users/occupants, the number of both internal and external water fixtures and the size of water meter connection. Each factor increases actual water consumption and system demand, and alternative commercial and industrial development creates a potential for increased future consumption and system demand.

10. The Monterey Peninsula Water Management District acknowledges that a need exists within the District to foster and encourage low and moderate income housing to meet the residential needs of the community. A general need exists to foster and encourage all residential use over commercial and industrial uses of the limited water supply. To meet this need the District desires to minimize the impact of its water supply augmentation charge upon both low and moderate housing projects within the District, and upon all residential projects, and therefore has promulgated a graduated and separate connection charge for residential connections.

### **Water Rationing**

11. The Monterey Peninsula Water Management District has adopted a water-rationing ordinance to regulate water use to guarantee a fair distribution of potable water should demand exceed the capacity of District water supplies.

### **Augmentation**

12. The Monterey Peninsula Water Management District is presently planning a water supply project with an estimated cost of approximately \$34,000,000.00. The cost of financing this project could exceed \$172,000,000.00, with an annual cost of \$6,700,000.00. These long-term costs of this water supply project can be substantially reduced by the creation of a sinking fund to pre-pay a portion of the project construction costs.

13. The Monterey Peninsula Water Management District intends to augment the supply of potable water available to water distribution systems to meet domestic and municipal water demand on the Monterey Peninsula and throughout the District;

14. The California Legislature has found that the privately owned water suppliers do not have the facilities nor the ability to raise sufficient capital to meet these augmentation needs or regulate the distribution of water within the District;

15. The Monterey Peninsula Water Management District has examined alternate methods of augmenting potable water supplies and of conserving existing water supplies;

16. The precise cost of water augmentation project expenses is not at this time ascertainable; but threshold costs regarding environmental review, project design, engineering, administrative permits, revenue funding, and election expenses are substantial and would affect any alternative water supply augmentation project;

17. Water supply augmentation project expenses are in part mandated by other public agencies, including but not limited to the California Department of Fish and Game, and the California State Water Resources Control Board. These expenses cannot be avoided due to the regulatory control exercised by such public entities, and are incurred for the providing or the availability of augmented District water and District services;

#### **Flood Hazard**

18. The Monterey Peninsula Water Management District has implemented a flood hazard warning program to monitor and publicize the degree of risk attendant to flood events, and to assist in the management and operation of surface reservoirs in the Carmel Valley;

#### **Ground Water Monitoring**

19. The Monterey Peninsula Water Management District has implemented a ground water monitoring program to record the quantity of potable water annually extracted by overlying residents, and extracted for export from the groundwater basin by District water distribution systems;

20. The Monterey Peninsula Water Management District has conjunctively undertaken a pilot study with the largest water distribution system in the District to examine the groundwater drawdown effects caused by certain wells operated by that system, and to devise an irrigation program to ameliorate vegetative impacts caused by drawdown;

21. The Monterey Peninsula Water Management District has developed two digital computer models that simulate the behavior of the Carmel alluvial basin to facilitate optimal groundwater management of that potable water resource;

22. The Monterey Peninsula Water Management District has drilled seven water quality monitoring wells in Carmel Valley and regularly conducts water quality analyses of that potable water resource;

23. The Monterey Peninsula Water Management District has completed a waste water management study of the Carmel Valley in conjunction with the County of Monterey to examine the capacity of the groundwater basin to accomodate additional septic loading;

#### **River Management Program**

24. The Monterey Peninsula Water Management District has formed an improvement zone (Zone #3) which facilitates management of the Carmel River, and has promulgated the Carmel River Management Plan to protect the water course, the watershed, public ways, life and property in the District; and promote the restoration of river banks and scenic resources; and reduce environmental degradation which has affected fish and wildlife habitat;

## **Water Distribution System Services**

25. The Allocation Program, the Water Rationing Regulation, the preliminary Augmentation Project work, the Flood Hazard Warning Program, the Groundwater Monitoring Program, and the River Management Program undertaken by the Monterey Peninsula Water Management District constitute services which have been furnished by the District on behalf of, and which have accrued to the benefit of the water distribution systems of the Monterey Peninsula, and to the water consumers they serve;

26. The Monterey Peninsula Water Management District, through its Ordinance No. 19, has integrated the management of all District water resources and the management of District water distribution systems to meet the needs of water consumers and to reduce environmental degradation caused by the exportation of this resource.

27. Expenditures made by the Monterey Peninsula Water Management District alleviate burdens that are placed upon the Carmel River and other District water resources by reason of water extraction and exportation caused by District water distribution systems and other water consumers;

28. The Monterey Peninsula Water Management District cannot fully fund its management, monitoring, augmentation and river restoration programs from general fund revenues to fully discharge, in a timely manner, the duties delegated by the California Legislature, and to fulfill the current needs of District water distribution systems and their water consumers;

### Authority

29. The Monterey Peninsula Water Management District is authorized to establish a permit system to regulate the creation, establishment, extension, and/or expansion of water distribution systems within the District, including the addition of new water meters to those systems.

30. The Monterey Peninsula Water Management District is authorized to fix and collect rates and charges for all services, including services relating to the augmentation of the existing water supply, and is authorized to impose connection fees and connection charges upon systems and users who benefit from services which have been furnished by the District;

NOW THEREFORE, BE IT ORDAINED that Rule 24, "Connection Charge" of the District's Rules and Regulations be revoked, and BE IT FURTHER ORDAINED that the attached Exhibit "A", incorporated herein by reference, is adopted on first reading as an urgency measure and shall be implemented as an uncodified ordinance, effecting interim connection charges pending the review and adoption of formal revisions to Rule 24 of the District's Rules and Regulations.


On motion of Director Heuer and seconded by Director Bernardi, the foregoing ordinance is duly adopted as an Urgency Ordinance, and Rule 24 of the District's Rules and Regulations is hereby revoked, this 10th day of December, 1984, by the following votes.



**AYES:** Directors Townsend, Heuer, Peters, McClintock,  
DeBerry, and Bernardi  
**NAYES:** Director Williams  
**ABSENT:** None

I, Gladys McKillop, Secretary of the Board of Directors of the Monterey Peninsula Water District, hereby certify that the foregoing is a full and true copy of an ordinance duly adopted on the 10th day of December, 1984, and now is of record in my office.

Witness my hand and seal of the Board of Directors this 19th day of December, 1984.

  
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Gladys McKillop, Secretary

ORDINANCE NO. 20

INTERIM CONNECTION CHARGES

1. Determination of Interim Charges

Each applicant for a permit to expand or extend a water distribution system, including applicants seeking to relocate or change the size of a connection or a water measuring device, and applicants seeking to intensify water use through an existing connection shall, prior to issuance of such a permit, deposit with the District all connection charges calculated pursuant to this Ordinance in addition to the fees prescribed by Rule 60 of the Districts' Rules and Regulations. Additions to or remodels of existing structures shall require an amended permit and the payment of connection charges pursuant to this Ordinance.

2. Determination of Improvement Value

The expansion/extension permit applicant shall provide the District the assigned improvement value determined by the Municipal or County planning or building department which relates to the building permit necessitating the water distribution system expansion or extension. For governmental connections, the assigned improvement value shall be the final bid accepted by the governmental unit authorizing construction of the project. A separate improvement value shall be determined for each residence (i.e., for each house, apartment, or living quarters intended for residential occupancy by a family unit), and for each commercial, governmental, or industrial connection.

Where no assigned improvement value is available, or where the General Manager determines that the assigned improvement value for a particular application does not reasonably relate to the apparent value or cost of the completed expansion/extension project, or where the General Manager determines that the assigned improvement value for a particular application does not reasonably relate to the burden upon the water distribution system, or the burden upon District sources of supply, caused by the projected increase in water consumption, then the General Manager shall either (1) propose an alternate improvement value (which may be lesser or greater than the assigned improvement value) which relates the improvement value to those burdens, or (2) submit the question of connection charge calculation to the Board pursuant to subdivision 7 of this Ordinance. The selection of an alternate improvement value shall be based upon one or more of the following criteria: (1) the projected water consumption of the project in comparison to the average water consumption of a comparable residential, commercial, or industrial connection, or (2) the projected water consumption of the project as forecast by the type and quantity of fixture units set forth in the building plans, or (3) the projected water consumption of the project as forecast by the type and area of outdoor irrigation which may be anticipated due to the site location of the project.

3. Calculation of Connection Charge  
A. Residential Connection Charge

A connection charge shall be calculated for each expansion/extension permit seeking a residential connection by multiplying the assigned improvement value (or alternate improvement value) as determined pursuant to subdivision 2 of this Ordinance as follows:

The first \$50,000 of  
improvement value x 1.5% = sub total of  
connection charge

All improvement value  
exceeding \$50,000 x 3.0% = sub total of  
connection charge

Total charge per  
residential connection

B. Commercial, Governmental and Industrial  
Connection Charge

A connection charge shall be calculated for each commercial, governmental and industrial expansion/extension permit by multiplying the assigned improvement value (or alternate improvement value) as determined pursuant to subdivision 2 of this Ordinance by the sum of 3.0% as follows:

\$ improvement value x 3.0% = \$ connection charge

4. Minimum Connection Charge

Notwithstanding the calculations required by subdivision 3 of this Ordinance, there shall be a minimum connection charge in the amount of \$250 per residential connection, and \$500 per commercial, governmental or industrial connection, upon each application to expand or extend a water distribution system, and a minimum non-refundable connection charge in the amount of \$600 upon each application for a temporary expansion/extension permit. Any application for an expansion/extension permit which is made by the holder of a current (unexpired and non-revoked) temporary expansion permit shall be credited with the connection charge previously paid for the temporary permit.

5. Applications Which Affect Existing Connections.

Projects which will relocate, enlarge, resize, or alter the type or quantity of use from an existing permanent connection, including projects which will add to or remodel existing

structures, shall pay the connection fee required by this Ordinance. For such projects, the General Manager shall first determine the connection charge calculation detailed above in subdivisions 3 and 4 of this Ordinance. Thereafter, the General Manager may reduce the connection charge with respect to applications for an amended permit which seek only to relocate, increase, or alter the type or quantity of use from an existing permanent connection. The connection charge reduction shall be a percentage reduction, and shall exact a connection charge only as it relates to the extra increment of water which will be available to and subject to use by the applicant as a function of the relocated, increased, or altered use from the connection.

The General Manager shall make this determination upon the changed size of the connection, the changed use of the connection, and any other factor which relates to the burden upon the water distribution system, or upon sources of supply which are projected to result from the relocation, enlargement, or resizing of the existing connection. The General Manager shall examine average water consumption of comparable connections, consumption as forecast by comparable fixture units, or consumption relating to comparable outdoor irrigation in making this determination. Determinations of the General Manager pursuant to this subdivision may be appealed to the Board pursuant to subdivision 7 of this Ordinance.

6. Applications Which Affect Expansions/Extensions Which are in Progress.

The General Manager shall not assess the water supply connection charge pursuant to subdivisions 3 or 4 of this Rule with respect to construction projects which are "in progress" on or before July 9, 1984, but shall assess the charges and fees required of Rule 24 of the District's Rules and Regulations which were at that time in effect for those projects. The term "in progress" shall be defined as those projects which, on or before July 9, 1984, a) had received a final building permit, or other final discretionary approval, from the municipal unit whose jurisdiction includes the property upon which the project is constructed, or b) had submitted a completed application for a building permit, together with all fees required thereon, to the municipal unit whose jurisdiction includes the property upon which the project is to be constructed. Governmental projects which had been let to final bid on or before July 9, 1984 shall also be deemed "in progress". The General Manager shall refund the full cost of any temporary permit fee paid by those applicants whose construction projects were "in progress" in accord with this subdivision, and who were issued a temporary permit during that period of time when the issuance of permanent permits had been suspended. This subdivision shall have no force or effect with respect to permanent expansion/extension permits issued after July 10, 1985.

## 7. Connection Charge Hearings

Upon request of an applicant, together with the payment of any applicable fee, or upon referral of the General Manager, the Board shall conduct a hearing to determine the connection charge due under this Ordinance. The Board hearing shall be conducted as a variance pursuant to Rule 90 of the District's Rules and Regulations. Following this hearing, the Board may calculate the connection charge upon the assigned improvement value, the General Manager's alternate improvement value, or upon any other improvement value which reasonably relates the improvement value for the particular application to the burden upon the water distribution system, or the burden upon District sources of supply which may be caused by the protected potential increase in consumption as a result of the new connection; the improvement value selected must be warranted by the circumstances and tend not to defeat the purpose of these Rules and Regulations. The Board need not make the findings required by Rule 90(a), (b), or (c) if the connection charge is calculated upon either the assigned improvement value or upon the General Manager's alternate improvement value, but shall make those findings to substantiate any other improvement value selected. The Board may take notice of prior connection charges paid pursuant to the District's Rules and Regulations by the applicant or his predecessor in interest with regard to the parcel or parcels on which the expansion or extension will occur.

## 8. Connection Charge Refunds

The connection charge paid by an applicant for an expansion/extension permit under this Ordinance shall be a fee retained by the District in consideration of, and as reimbursement for, the District's costs for administration of the expansion/extension application, and for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining water supply capacity in the water distribution facilities existing or to be constructed within the District. Should the Board hereinafter determine that the District will not undertake any project to augment the water resources and service capacity within the District, and if either this Ordinance or a subsequent revision to the District's Rules and Regulations be amended to eliminate or substantially abandon or reduce the connection charge required for future expansion/extension permits, the Board may, in its sole discretion, provide for a refund of a portion of the connection charge paid by any applicant together with interest as may be determined by the Board. The total amount of District monies subject to refund shall exclude all expenses and costs of the District in planning for, acquiring, reserving and maintaining augmented water supply capacity, and in administering the connection charge program. The amount of refund, if any, shall be determined by the Board at the time this Ordinance is amended. All refunds shall be determined strictly upon a pro rata basis, with the sole variables being (1) the

initial connection charge paid by any one applicant and (2) the total amount of monies to be refunded as determined by the Board. No provision of this Ordinance shall confer a right upon any applicant to receive a refund as provided in this part.

9. Connection Charge Fund Accounting.

The District shall maintain separate accounts for all connection charges received by operation of this Ordinance. Two separate fund accounts shall be maintained, designated connection charge accounts "A" and "B". Account "A" shall receive 18.67% of all connection fees collected pursuant to this Ordinance. Account "B" shall receive 81.33% of all connection fees collected pursuant to this Ordinance.

Connection charge funds shall be expended from these connection charge accounts 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. Connection charge funds may further be used to acquire, maintain, and/or reserve capacity in existing water distribution facilities existing within the District.

Notwithstanding any other provision of this Ordinance, the expenditure of funds maintained in Connection Charge Account "B" shall not be authorized prior to the final discretionary approval of a water supply project, including, if necessary for the project, a vote of the people.

10. Interim Ordinance

This ordinance shall not become a part of the Rules and Regulations of the Monterey Peninsula Water Management District. All words and phrases used within this Ordinance shall have those meanings, and be read in conjunction with the District's Rules and Regulations.

11. Savings Effect

If any subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance, it being the District's express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses or phrases be declared invalid or unenforceable.

12. Urgency Effect

This ordinance shall take immediate effect upon its adoption by the Board of Directors as an urgency measure.

13. Revocation of Rule 24

The provisions of Rule 24 of the District's Rules and Regulations are herewith revoked, and shall have no further force or effect.