

ORDINANCE NO. 36

AN ORDINANCE OF THE
BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT
AUTHORIZING FEE COLLECTION FOR
CARMEL RIVER MANAGEMENT PRACTICES

RECEIVED
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M.P.W.M.D.

The Board of Directors adopts the following findings in support of its action on this ordinance.

FINDINGS

1. The California Legislature has found that the Monterey Peninsula area has a need to augment and manage its supplies of potable water. For this reason, the Monterey Peninsula Water Management District was created as the sole agency which exercises integrated management of water resources for the Monterey Peninsula area. The Legislature further found and declared that local water suppliers do not have the facilities or ability to finance projects for this area.
2. The Monterey Peninsula Water Management District Board of Directors has adopted a goal to augment the supply of potable water available to the area to reduce the effect of drought, to improve the river environment, and to accommodate planned growth within the communities of the Monterey Peninsula. To develop the new supply of water, the Water Management District has proposed a new water supply dam on the Carmel River and is presently completing the federal and state review leading to the issuance of permits and the commencement of construction.

3. The Monterey Peninsula Water Management District continues to work with interested citizens, local groups, state agencies, and federal agencies to ensure that present water supply practices are as compatible as possible with the requirements of the natural ecosystem. This effort is a requirement of law, and an integral part of the District's water management responsibilities, and is necessary to ensure the continued reliability of existing water supply practices. The District's Carmel River Management Plan, riparian irrigation program, and conservation efforts are central components of this effort.

4. The California Legislature in 1988 added Chapter 13.7 (commencing with Section 54999) to Part 1 of Division 2 of Title 5 of the Government Code to authorize payment and collection of capital facilities fees by public entities. This provision enables a capital facility fee to be placed on users of public utility facilities in order to equitably apportion the cost of capital facilities construction or expansion required by all private users of the facilities.

5. Present funding of the Emergency Irrigation Program and the irrigation project required for lower Carmel Valley production wells is substantially impeded by the District revenue limitations. The Emergency Irrigation Program shall involve capital facilities costing approximately \$250,000.00,

and has been recommended for implementation by the Environmental Advisory Committee, including representatives of the State Water Resources Control Board and the California Department of Fish and Game as measures which are integrally necessary to present water supply management practices. Additional cost shall be necessary for operation and maintenance of the Emergency Irrigation Program, and for the lower valley well irrigation programs.

NOW THEREFORE BE IT ORDAINED as follows:

Section One: Water Distribution Systems Affected

The following water distribution systems shall each comply with the provisions of this ordinance.

California American Water Company,
Water West, and
Seaside Municipal.

Section Two: Authorization of Surcharge

Each water distribution system listed in Section One of this ordinance shall, effective January 1, 1989, or as soon thereafter as is practicable, impose a 0.875% surcharge upon water bills collected from all consumers within those water distribution

systems as a use fee payable to the Monterey Peninsula Water Management District. This fee is both a capital facilities fee and a capacity charge and shall be payable by all public agencies, private entities, and individuals based upon proportionate use and benefit of system facilities as evidenced by the basic water bill, inclusive of all variable and fixed charges, including use charges, standby charges, and readiness to serve charges.

Section Three: Partial Sunset of Surcharge

Effective January 1, 1994, or as soon thereafter as is practical, the surcharge authorized by Section Two of this ordinance shall be reduced from 0.875% to a surcharge of 0.445% to be collected from all consumers served by those water distribution systems listed in Section One.

Section Four: Administrative Implementation

The General Manager is authorized to negotiate the implementation of this fee with each listed water distribution system and to ensure each system is reimbursed for its actual and reasonable expenses incurred by reason of this ordinance, and by subsequent collection and accounting for this fee. These administrative expenses may be added to the surcharge. All such agreements shall be ratified by the Board of Directors.

This ordinance shall be in addition to any other provision by the Monterey Peninsula Water Management District or any other public or private agency relating to the payment or collection of water use fees, connection charges, use fees, utility taxes, or surcharges which may heretofore have been imposed and collected by each water distribution system.

Section Five: Application of Government Code Section 54999.3

Notwithstanding any other provision of this ordinance, the capital facilities fee and capacity surcharge shall not apply to any of the following,

- a) any school district,
- b) the county office of education,
- c) any community college district,
- d) the California State University,
- e) the University of California, or
- f) any state agency,

until after the General Manager has negotiated with those agencies in accord with Section 54999.3 of the Government Code and brought an agreement to the Board of Directors for ratification. The Board directs that each such agreement provide for an application of the capital facilities fee and capacity surcharge on a nondiscriminatory basis, based upon each entity's proportionate share of use of those facilities.

Section Six: Publication

This ordinance shall not cause an amendment or addition to the Rules and Regulations of the District, but instead shall be listed within those Rules as an uncodified ordinance of the Board of Directors.

On motion of Director Strasser Kauffman, and second by Director Hughes, the foregoing ordinance is duly passed to print this 11th day of July, 1988, by the following vote:

AYES: Directors Lombardo, Pendergrass, DeBerry, Davis, Heuer, Strasser Kauffman and Hughes

NAYES: None

I, Bruce Buel, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a full, true and correct copy of an ordinance duly passed to print this 11th day of July, 1988.



BRUCE BUEL, Secretary to the Board

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