

ORDINANCE NO. 68 WAS NOT BROUGHT TO THE BOARD
FOR FINAL ADOPTION

ORDINANCE NO. 68

AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RULE 24 CONNECTION CHARGES

FINDINGS

1. The Monterey Peninsula Water Management District (District) was formed, among other reasons, to provide integrated management of the ground and surface water resources within the Monterey Peninsula area, including the waters of the Carmel River. As the sole local agency responsible for the integrated management of water resources for the Monterey Peninsula area the District bears responsibility for the management and augmentation of water supplies for domestic and municipal purposes.
2. To meet near term water supply requirements, the District has proposed a 3 million gallon per day seawater desalting plant, and has formed an improvement zone for that project.
3. To meet long term water supply requirements, the District has pending before the State Water Resources Control Board (SWRCB) Application 11674B (SWRCB Permit 7130B) and Application 26714, each of which relate to proposed development of additional supplies of stored water on the Carmel River.
4. The Monterey Peninsula Water Management District has adopted and regularly implements a process under its Regulation II, Rule 24, whereby permits are issued to allow new or expanded water use from water distribution systems within the District. The District has exercised this power in accord with the provisions of Section 363 of Chapter 527 of the Statutes of 1977. Charges for new water use are authorized under the Government Code as fees which do not exceed the reasonable cost of providing water service.
5. Connection charges authorized by District Regulation II underwrite costs to develop new water supplies for the Monterey Peninsula. Charges authorized by Regulation II have been determined to be valid by a judgment of the Superior Court in Case No. M 15851. That lawsuit was an in rem validation proceeding under section 860 of the California Code of Civil Procedure. The Superior Court determined the connection charge was enforceable as a valid capacity charge. The administrative files regarding origination of that charge remain available for review and include transcripts of 11 public meetings of the Board of Directors of the Water Management District, and transcripts of the 10 meetings of the 1984 ad hoc Finance Advisory Committee formed to develop the connection charge methodology. The administrative record regarding modification of this charge also include meetings of the 1992 ad hoc Citizen's Finance Advisory Committee formed to review and make recommendations necessary to update the connection charge, and all proceedings before the Board of Directors of the Water Management District.

6. The connection charge was originally set to collect a portion of the anticipated total annual project cost to the Water Management District of \$6.7 million dollars per year. That amount was based upon a proposed dam and reservoir of 18,000 acre feet having a capital cost of \$34 million. Based on this assumption, the initial water supply cost component used in 1984 to determine each connection charge was \$10,623.20 per acre foot of new water use. Due to inflation, the cost component now exceeds \$14,500.00 per acre foot.

7. This ordinance shall modify the water supply cost component used to determine each connection charge. This amendment is required due to more recent and accurate estimates of the cost of developing new water supplies.

8. The amendments to Rule 24 set forth in this ordinance shall ensure that the connection charge collected with respect to each permit application shall bear a close and positive correlation to the actual costs required to develop new water capacity for any new development. This charge shall also recapture a portion of water capacity and development expenses previously paid by existing rate payers.

9. Connection charge revenues shall be used only for water augmentation projects to develop water supplies. Detailed accounting and management of all connection charge funds is required pursuant to District Rule 24 (K). Connection charge proceeds may be spent to plan for, acquire or reserve augmented water supply capacity for District water distribution facilities, and may pay expenses related to archaeological, engineering, environmental, hydrologic, geologic, fishery, appraisal, financial, and property acquisition endeavors. Those funds may further be used to acquire, maintain, or reserve capacity in existing water distribution facilities within the District.

NOW THEREFORE be it ordained as follows:

ORDINANCE

SECTION ONE: SHORT TITLE

This ordinance shall be known as the Connection Charge Recalculation Ordinance of the Monterey Peninsula Water Management District.

SECTION TWO: STATEMENT OF PURPOSE

The Monterey Peninsula Water Management District enacts this Connection Charge Recalculation Ordinance as legal authority to modify the present connection charge. This ordinance, however, shall not modify the method used to assess those charges.

SECTION THREE: CONNECTION CHARGE RECALCULATION

After the effective date of this ordinance, the provisions of Rule 24 (E) "Water Supply Cost Component" shall be modified to delete the text in brackets, and to add the underlined text, as follows:

The water supply cost component used as a monetary multiplier in each connection charge calculation required by this rule shall be [~~\$10,623.20~~]
\$18,640.00. This water supply cost component shall be adjusted on July 1st of each year beginning July, [~~1985~~] 1994 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 extension/expansion application received on or after July 1st of each year.

SECTION FOUR: EFFECTIVE DATE

This ordinance shall have an effective date of July 21, 1993.

SECTION FIVE: PUBLICATION AND APPLICATION

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This ordinance shall be read in conjunction with and compliment those provisions of the District's Rules and Regulations.

SECTION SIX: SEVERABILITY

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, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations.

It is the District's express intent that each remaining provision of this ordinance would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable, provided however, if the effect of invalidation shall in any manner interfere with collection or enforcement of connection charges under this revision to Rule 24 to the extent that a lesser connection charge shall be assessed pursuant to this ordinance than would have been collectable under the former provisions of Rule 24 (the provisions modified by this ordinance), then and in that sole event, this ordinance shall be null and void and it shall be the District's intent that the provisions of Rule 24 in existence prior to

modification by this ordinance shall instead be deemed to have remained continuously in effect without modification.

On motion of Director _____, and second by Director _____, the foregoing ordinance is adopted this _____ day of _____, 1993, by the following vote:

AYES:

NAYS:

ABSENT:

I, James R. Cofer, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted this _____ day of _____, 1993.

Witness my hand and seal of the Board of Directors this _____ day of _____, 1993.

James R. Cofer, Secretary to the Board