

ORDINANCE NO. 14

AN ORDINANCE OF THE BOARD OF DIRECTORS OF
CALLEGUAS MUNICIPAL WATER DISTRICT ADOPTING
RULES AND REGULATIONS FOR
A CAPITAL CONSTRUCTION CHARGE, AS AMENDED

AMENDED – JULY 15, 1981	AMENDED - JUNE 21, 2000
AMENDED – JULY 29, 1981	AMENDED - JUNE 6, 2001
AMENDED – FEBRUARY 3, 1982	AMENDED – NOVEMBER 27, 2002
AMENDED – DECEMBER 18, 1985	AMENDED – NOVEMBER 5, 2003
AMENDED – DECEMBER 15, 1993	AMENDED - JULY 19, 2006
AMENDED – JULY 5, 1995	AMENDED – APRIL 18, 2012

WHEREAS, the Calleguas Municipal Water District was organized in December 1953 under the Municipal Water District Act of 1911, as amended, for the purpose of making available a water supply to that portion of Ventura County lying within the District’s boundaries; and

WHEREAS, since the District became a Member Public Agency of the Metropolitan Water District of Southern California in December 1960, as mandated by the Calleguas Municipal Water District’s electorate, it has, as of December 1963, and continuously since that date, provided imported potable water on a wholesale basis to its Member Agencies; and

WHEREAS, the initial financing of the District’s first capital construction program was derived from the proceeds of general obligation bonds, repayable by ad valorem taxes levied upon real property within the District; and

WHEREAS, in order to continue the transmission and delivery of water to supply the increasing demands within the District’s boundaries it is necessary and incumbent upon the District to provide for the timely construction and financing of the capital facilities required to insure a reliable water supply throughout the District’s service area; and

WHEREAS, the Board has determined that the exclusive use of the ad valorem tax as a means of funding the District’s future capital construction is not sufficient; and

WHEREAS, the District’s 2010 Urban Water Management Plan Update estimates that the population within the District’s boundaries will continue to significantly increase over the next 20 years; and

WHEREAS, the Board has determined that a portion of the future capital improvement costs should be borne by the additional population and improved real property that benefits from the capital improvements, since the additional population and improved real property creates increased water demand and the need for the Capital Improvement Program; and

WHEREAS, the Board has further determined that a charge commonly referred to as the “Capital Construction Charge” (or “CCC”) shall be levied proportionately upon new developments and improvements and newly annexing properties which generate additional water requirements, in accordance with Government Code section 66013 and other applicable sections of the “Mitigation Fee

Act” as appropriate, which charge, together with other sources of revenue, shall be utilized to finance the Capital Improvement Program; and

WHEREAS, in 2002, a nexus study was prepared to establish the link between Calleguas’ CCC and the costs of new facilities to service new demands on the District’s system, document the methodology for levying the CCC and summarize the recommended schedule of charges; and

WHEREAS, the Board may, under provisions of the Municipal Water District Act of 1911, as amended, establish terms, conditions, rules, and regulations for Water Service to its Member Agencies who, in turn, and in accordance with the Subdivision Map Act and other applicable regulations, may require compliance with certain standards, rules, and fee payments as a precedent to furnishing Water Service to a tract, parcel, lot, or connection;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CALLEGUAS MUNICIPAL WATER DISTRICT AS FOLLOWS:

SECTION 1. Definitions. The word or words used in the text of this Ordinance shall have the meaning set forth below unless a clearly different meaning is implied or stated in the text hereof:

A. “Agriculture” shall mean the production of fruit, vegetables, non-food plant products and livestock for the purpose of commerce or for the use of public correctional or educational institutions and shall be understood to exclude all industrial, commercial, residential or other public uses of land.

B. “Applicant” shall mean that individual, person, company, corporation, partnership, agency, or any organization or group, public or private, or authorized representatives thereof which propose a new development or improvement resulting in a new or increased water demand on the District’s system.

C. “Board” shall mean the Board of Directors of the Calleguas Municipal Water District.

D. “Capital Construction Charge” (“CCC”) shall mean the amount of money to be paid to the District, in accordance with the Rate Schedule hereinafter set forth, to discharge the obligation of a new development or improvement and newly annexing territory requiring District water, the entire quantity or any portion of which is delivered by a Member Agency or its Retail Purveyor, as a prerequisite to the supply of such water.

E. “Capital Improvement Program” shall mean those additions and/or changes to the District’s water system, which shall consist of projects listed in the most recent Water Master Plan, and such projects as may be added to, deleted from, or modified by the Board from time to time.

F. “Construction Fund” shall mean that section within the District’s Chart of Accounts maintained exclusively for the purpose of recording revenues and controlling expenditures for construction projects including the Capital Improvement Program.

G. “Development” shall mean the construction or expansion of public or private buildings or any other facilities, land improvements or modifications which require permanent water service.

H. "District" shall mean the Calleguas Municipal Water District, duly organized under and by virtue of the Municipal Water District Act of 1911, as amended.

I. "Memorandum of Understanding" ("MOU") shall mean the document issued by the District which confirms the availability of water for a proposed project; indicates that the District has no objection to the recording of a subdivision map; and authorizes the issuance by the Member Agency or its Retail Purveyor of a Will Serve Letter conditioned on payment of the CCC.

J. "Meter Size" shall mean the nominal pipe size a meter will accept at its outflow side without use of a bushing or adapter.

K. "Proof of Payment" shall mean the document issued by the District which confirms payment of the CCC by the Applicant; authorizes the issuance of an unconditional Will Serve Letter; and authorizes the installation of water meters by the Retail Purveyor, and the issuance of building permits by the Member Agency.

L. "Planning Permit Procedures" shall mean that system and process through which any city or county planning and/or permit authority controls compliance with its General Plan or legislation applicable within the District, including land use zoning and permit issuance.

M. "Retail Purveyor" shall mean any entity which receives Water Service, all or in part, through a permanent Service Connection to District infrastructure.

N. "Second Tier Purveyor" shall mean a retail purveyor that does not purchase water directly from the District, but which receives or proposes to receive District water through a connection to a Retail Purveyor.

O. "Water Availability Letter" shall mean a letter from the District confirming that its distribution, storage and treatment facilities presently have the capacity to deliver sufficient water to the retail agency that will serve a project to allow that agency to supply the proposed development.

P. "Water Service" shall mean any delivery of potable water by a Member Agency or its Retail Purveyor to an Applicant for any purpose whatsoever, including but not limited to initial grading, individual residential use, commercial, agricultural, or industrial use.

Q. "Will Serve Letter" shall mean that document or its equivalent issued by a Retail Purveyor committing to serve a specific property with water.

SECTION 2. Adoption of Capital Construction Charge. The CCC shall be administered and collected by the District in accordance with this Ordinance 14.

SECTION 3. Additional Rules and Regulations. The rules and regulations contained in this Ordinance relating to Water Service and other matters within the District shall be applicable to all Retail Purveyors and Second Tier Purveyors and shall be in addition to and not in lieu of those rules and regulations set forth in the District's Ordinance No. 12, as amended, and other related District legislation.

SECTION 4. Development Review. Projects involving excavation, grading or construction within or proximate to a District right-of-way are subject to engineering review by the District to ensure that those activities do not damage, interfere with, or compromise the integrity of District facilities,

easements, rights of way, or any rights thereunder. Notwithstanding receipt of the CCC, the District will issue a MOU and a Proof of Payment authorizing the issuance of building permits for projects subject to development review by the District only after the developer has fully complied with all of the District's engineering requirements. Those requirements include, but are not limited to: providing proposed grading and improvement plans for review on or before the date they are submitted to a public works agency for permit review; delivering a cash deposit in an amount determined by the District's Manager of Engineering from which the District and consultants will be paid for field support, engineering, legal and right-of-way services necessary to protect District facilities from the proposed project; and completion of grading and excavating operations in compliance with supplemental construction procedures and details the developer shall be obligated to use or install to protect District pipelines or other facilities.

SECTION 5. Applicability. CCCs shall be payable commencing with the effective date of this Ordinance and, in accordance with the Rate Schedule set forth below, in a uniform manner throughout the District. Except as provided herein, the CCC shall be applicable to all new developments and improvements of any nature whatsoever regardless of the existence of a water meter at the proposed site, which may require, all or in part, an initial or increased quantity of water, all or any portion of which is supplied through the District's system. Newly annexing properties with existing improvements shall bear the CCC charge calculated in the same manner as a new development; except that those properties on which improvements were constructed prior to April 6, 1980, shall not bear the CCC.

SECTION 6. Procedures. The District's general procedures as they relate to the application and collection of the CCC are as follows:

A. The CCC shall be a payment made by an Applicant in accordance with the Rate Schedule set forth in Section 7 for the purpose of providing a portion of the funds to pay for construction of the Capital Improvement Program.

B. At such time during the Planning Permit Procedures when an Applicant requests a Water Availability Letter, the District shall issue a MOU. By signing the MOU, the Applicant agrees to pay the CCC prior to the delivery of water to the project site for any reason including construction activities, or the issuance of building permits, whichever occurs first. Issuance of an MOU by the District shall not constitute authorization for water meter installation, but only a good faith effort by the District to enable an Applicant to proceed with certain project entitlement activities that do not in themselves provide for the physical installation of water meter(s) or delivery of water to the site.

C. At such time during the Planning Permit Procedures when an Applicant requests an unconditional Will Serve Letter from its Retail Purveyor, the Retail Purveyor shall, before issuing such unconditional Will Serve Letter, refer the Applicant to the District for the purpose of obtaining a MOU or Proof of Payment. The District shall then determine, pursuant to this Ordinance, the amount of the CCC applicable to the new development or improvement proposed. After payment of the CCC by the Applicant to the District, the District shall issue to the Applicant a Proof of Payment, which shall constitute District authorization for issuance of an unconditional Will Serve Letter to the Applicant by the Member Agency or its Retail Purveyor. Each Retail Purveyor shall refuse to issue an unconditional Will Serve Letter to any Applicant without first having in its possession a Proof of Payment, embossed with the District seal, or alternately, transmitted directly from the District electronically.

In the event that a Retail Purveyor does not, as a regular or routine practice, issue written Will Serve Letters either because its governing entity consists of the same governing body serving both the Planning Permit Procedure and the retail water service functions, or for any other

reason, then it shall be considered, for purposes of this Ordinance, that a Will Serve Letter or its equivalent shall have been issued by the Retail Purveyor as a required precedent to the approval of the Applicant's final development plan.

D. Payment of the CCC to the District shall be made by the Applicant before issuance of a building permit for the development or improvement and prior to installation of water meter(s) to serve the development, whichever occurs first. In the same manner, newly annexing territories on which there are existing improvements requiring Water Service may connect to the Retail Purveyor's distribution system only after full payment of the CCC.

E. Connections of Second Tier Purveyors to Retail Purveyors shall be subject to this Ordinance and shall bear the CCC on the same terms and conditions as any other Applicant.

F. Each Retail Purveyor shall be subject to the provisions of this Ordinance by application of this Ordinance as a condition of Water Service to such Retail Purveyor.

SECTION 7. Capital Construction Charge – Rate Schedule and Application. In accordance with the District's 2002 Nexus Study, the CCC shall be based on Meter Size(s) and quantity as specified in the following "Rate Schedule":

Meter Size (inches)	Capital Construction Charge
5/8"	\$2,235
3/4"	\$2,235
1"	\$4,649
1.5"	\$9,321
2"	\$14,908
3"	\$32,588
4"	\$55,878
6"	\$116,406
8"	\$167,635
10"	\$270,072
12"	\$400,469

A. In the event that a given parcel of land is to be served by multiple water meters, the applicable charge shall be the sum of the individual meter fees for the meters installed.

B. Meters installed exclusively to provide fire flow (i.e., capacity for duly authorized fire sprinklers and hydrants) will not be subject to the CCC.

C. Meters Oversized for Fire Flow: The District recognizes that some Retail Purveyors require installation of oversized meters on individual residential units, and as master meters serving large projects, for the purpose of providing additional capacity for fire sprinklers and hydrants.

1. When a Retail Purveyor certifies that the meter to be installed at a particular residence is oversized for fire flow, the District will apply the fee for the next smaller Meter Size per the schedule herein. In the event two meters are to be installed for a single residence to provide reserve capacity for fire flow, neither is designated exclusively for fire flow, and the Retail Purveyor

certifies that the combined capacity of the meters is oversized for fire flow, the charge will be determined as follows:

- a. If both meters are 1" or larger, one meter will be charged at the scheduled rate and the second meter will be charged as if it were one size smaller.
- b. If either of the dual meters is ¾" or smaller, one meter will be charged at the scheduled rate and no charge will be applied to the smaller meter.

2. In the event a single master meter is to be installed to serve a large residential, commercial, industrial or public complex, and it will also supply fire flow, the District will apply the fee for the next smaller Meter Size per the schedule herein.

D. Redundant Metering: Given the difficulty in verifying whether a meter serves exclusively as a redundant connection, this Ordinance does not recognize multiple meters serving a given parcel or complex as providing redundant water service. As such, all meters serving a particular parcel are subject to the provisions of this Section 7.

E. Changes in Meter Sizes: Should a larger meter replace a smaller meter at a given property, the charge shall be determined by subtracting the charge appropriate for the smaller meter that is removed, from the charge for the larger meter to be installed. When an additional meter is installed at a parcel with existing service, the charge for the new meter will be the same as if it were a new service connection. The District will require written confirmation of the new and existing Meter Sizes from the Retail Purveyor. Except as provided in Section 12 of this Ordinance, the District will not refund the charge in the event a smaller meter is installed.

F. Properties that contributed to the District's infrastructure by paying the charge for all existing improvements in full between April 6, 1980 and December 31, 2002, according to the rates then stated in Ordinance No. 14, are exempt from the CCC as follows:

1. When a larger meter is requested for such property, and no additional improvements, alterations of existing development, or change in designated land use, are made, no CCC will be imposed; and

2. Properties for which the charge was paid in anticipation of future development that remains incomplete will not bear an additional CCC for completion of the project as long as its scope is within the description contained in the original Proof of Payment.

G. Newly annexing properties on which there is existing development constructed shall bear the CCC upon annexation.

H. Recognition of Water Service to Previous Development: When development that occurred prior to April 6, 1980 on a particular parcel of real estate is documented by public records as described below, the District will recognize it as existing demand. Development that occurred after April 6, 1980 and for which a District Proof of Payment (Receipt) was issued will also be recognized by the District as existing demand.

1. When existing demand is recognized, the District will deduct from the fees due for proposed redevelopment an amount equal to the charges that would be levied if the previous Development were constructed today. Should the credit available from previous development exceed the amount due for new development, the District will not issue a refund.

2. The existence of an idle water meter alone, without evidence that the meter served development on a parcel, will not be recognized as existing demand.

3. District staff shall, upon request, conduct a reasonable search of the District's physical files and electronic records for a previously issued Proof of Payment (Receipt) and, in so doing, will have met any obligation the District may have to produce a record of a past payment. Ultimate responsibility to locate documentation of past development shall rest on the Applicant. The District will accept legible copies of the following documents as verification of previous development:

- a. A building permit clearly identifying the location and character of a building.
- b. A demolition permit clearly identifying the location, the existence of a structure, and its removal.
- c. Documentation from a Retail Purveyor clearly identifying the parcel in question, and verifying water consumption over a period of twelve months or longer.
- d. The Ventura County Assessor's record of assessed valuation for the parcel in question indicating building improvements existed on the land.

I. It shall be the responsibility of the Applicant to determine the size(s) of the meter or meters necessary to serve a proposed project before arranging for payment of the CCC. Sizes and quantities of meters to be installed must be certified by the applicable Retail Purveyor.

J. Meters delivering water for agricultural use shall bear the CCC using the same fee schedule as meters serving other uses. If an Applicant elects to convert to domestic use a meter previously delivering agricultural water and exempted from the CCC at the date of installation, the charge shall be paid prior to conversion. Any domestic use of water delivered through an agricultural meter, however limited, shall be considered to be a conversion of that meter.

K. All CCCs shall be levied and administered in accordance with the rules and regulations of this Ordinance and applicable law. These rules and regulations may be amended by addition, deletion, or modification by the Board. This "Capital Construction Charge – Rate Schedule" shall be amended by the Board only after a noticed public hearing in accordance with applicable law.

SECTION 8. Responsibility of Retail Purveyor. If, for any reason, a Retail Purveyor should either install a meter or issue an unconditional Will Serve Letter to an Applicant without first having in its possession a Proof of Payment embossed with the District seal or digitally signed and electronically transmitted by the District, then the amount of the CCC applicable to such meter pursuant to this Ordinance shall become the obligation and responsibility of that Retail Purveyor. Notwithstanding the foregoing, the Retail Purveyor will not be responsible for the CCC to the extent that the failure to pay

the CCC resulted from negligence on the part of the District or any of its employees, agents, officers, or directors. Such amount due the District shall be placed on the Retail Purveyor's current billing for water and treated in all respects as a part of the water bill, including delinquency provisions, pursuant to the District's Ordinance No. 12, as amended. The foregoing shall in no manner preclude the District from holding the Applicant directly responsible for payment of the CCC. Member Agencies shall cooperate fully with the District in any effort to collect the CCC from the Applicant. It shall be the responsibility of each Retail Purveyor to maintain accurate records of all service connections in the Retail Purveyor's service area, including Meter Sizes, and to promptly comply with any and all reasonable requests from the District for service records and verifications of Meter Size or other related information.

SECTION 9. Interest on Delinquent Capital Construction Charge Payments: Until such time as a delinquent CCC is paid or placed on a Retail Purveyor's water bill, it shall bear interest from the initial due date at the same rate as the District's funds deposited with the Ventura County Treasurer in the Ventura County Investment Pool, compounded monthly. The initial due date shall be the date of grading permit issuance, the date of building permit issuance, or the date of installation of a water meter, whichever occurred first.

SECTION 10. Commitment of Funds. All CCC payments collected by the District shall be deposited in the District's Construction Fund and shall be used only for construction of Capital Improvement Program projects that increase the District's capacity to serve new development.

SECTION 11. Appeal.

A. Amount Charged. If an Applicant disputes the amount of the CCC determined by District staff pursuant to this Ordinance, the Applicant may elect to file a written protest and appeal directed to the General Manager of the District. Such filing shall clearly state the basis for the disputed CCC and the Applicant's proposed rectification thereof and its basis therefore. The General Manager shall, within ten (10) business days of receipt of the protest and appeal, review and render in writing his/her determination of the matter. If the Applicant disputes the General Manager's determination, the Applicant may, within ten (10) business days of the General Manager's determination, file a written appeal with the Board. The Board shall review the appeal and render its determination within thirty (30) business days of its receipt of the appeal. The Board's determination shall be binding and final.

B. Ordinance. Any judicial action or proceeding to attack, review, set aside, void, or annul this Ordinance shall be commenced within 120 days of the effective date of this Ordinance pursuant to Government Code section 66022.

SECTION 12. Refunds. Full or partial refunds of a CCC, as the case may be, shall only be made in the following specific circumstances:

- A. In the event that a duplicate payment is made for the same land and development thereon. The burden of proof of duplicate payments shall rest on the Applicant.
- B. The District incorrectly calculated the applicable CCC.
- C. A Member Purveyor provides a revised Statement of Meter Size.

SECTION 13. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board hereby declares that it would have

passed this Ordinance by section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 14. Notices. All notices, protests, appeals, or other communications from Applicants, agencies, persons and organizations, relating to the CCC or the administration of these regulations by the District, shall be submitted in writing and shall be addressed to the General Manager of the District, 2100 Olsen Road, Thousand Oaks, California 91360-6800.

SECTION 15. Effective Date. This Ordinance, as amended, shall become effective at 12:01 a.m. pacific standard time on June 18th, 2012.

Adopted this eighteenth day of April, 2012.



Ted Grandsen, President
Board of Directors

ATTEST:



Donald G. Hauser, Secretary
Board of Directors

APPROVED AS TO FORM:



Douglas E. Kulper
District Counsel