

Article 165      Water Availability Charges

Sec. 165.1      General. In accordance with Article 2 and Article 2.5 of Chapter 2 of Part 5 of Division 20 of the Water Code, the Board of Directors may, from time to time, fix, levy and collect a water standby assessment or availability charge on property within the District.

Sec. 165.2      Deferral/Exemption Policy.

(a)      Property Deferred or Exempt from Payment of Water Availability Charges. Property described herein shall be deferred or exempt from the payment of the District's water availability charges subject to the application and agreement procedure provided herein.

1.      Property Subject to Exemption. The following categories of property shall be exempt from the payment of the District's water availability charges:

A.      Property owned by the State of California, the United States and any other tax exempt entity.

B.      Property not on the local secured roll.

2.      Property Subject to Deferral. The following categorized property may be deferred from the payment of the District's water availability charges upon the approval of the District's General Manager, or his designee, in accordance with Section 165.2(b):

A.      Complete assessors parcels which are permanently dedicated to open space and maintained in the natural state which are not now and will not in the future be supplied with water service.

B.      Complete assessor's parcels that the General Manager, in his discretion, finds are not presently using, and there is no intention to use, water purchased from the District or from any person, agency, business or entity that does or could purchase water from the District, and that cannot reasonably be expected to derive a benefit from the projects to which the proceeds of the water availability charge are applied.

(1)      Parcels that are adjacent to a water line, adjacent to another parcel or group of contiguous parcels owned by the applicant or a related entity (defined liberally) that as a group are adjacent to a water line, or adjacent to any parcel that itself is adjacent to a water line or that has water service from the District are not eligible for deferral.

Article 165      Water Availability Charges (Cont'd.)

Sec. 165.2    Deferral/Exemption Policy (Cont'd.)

- (b)    Approval of Deferral. Upon application as provided herein, property identified in Section 165.2(a) may be deferred from the payment of the District's water availability charges pursuant to procedures approved by the General Manager, as follows:
1.    The deferral is not applied retroactively beyond the current year. Paid property tax receipts must be shown to secure refund for current year, or County charge paid to remove charge from tax rolls.
  2.    The deferral is applicable to whole parcels only, as identified by the San Diego Assessor's Office.
  3.    Applicants for deferral shall be in good financial standing with the District.
- (c)    Application for Deferral. Applications filed with the District shall be in a form provided by the District and shall be accompanied by a service fee of \$120.00 plus \$60.00 per parcel and shall substantially comply with the following:
1.    The application and subsequent agreement must be signed by the owner of the property. An application for deferral is not considered complete and will not be processed until the service fee is paid.
  2.    The owner of the property executes a recordable agreement which includes provisions that:
    - A.    No Valley Center Municipal Water District, San Diego County Water Authority or Metropolitan Water District water is presently being used or will be used either directly or indirectly on the subject property. If considered appropriate by the General Manager, water produced from a well on the subject property may be used for limited domestic, irrigation and stock watering.
    - B.    The deferral termination provisions are as set forth in Section 165.2(d).

Article 165      Water Availability Charges (Cont'd.)

Sec. 165.2      Deferral/Exemption Policy (Cont'd.)

(d)      Termination of Agreement.

1. The agreement may be terminated upon written request by the owner or unilaterally by VCMWD if water provided by VCMWD, SDCWA or MWD is found to be used on the parcel in violation of the agreement.
2. In the event of termination of the agreement for any reason, payment of the following is required:
  - A. All availability charges previously deferred,
  - B. Interest compounded annually at the legal rate from the date such availability charges would have been otherwise due and payable, and
  - C. A surcharge of 10% of all availability charges previously deferred.

Any amount unpaid by the owner under this section is subject to addition to the property tax roll under Water Code Section 72094, etc.

3. Termination of a deferral agreement is no guarantee of service. The District may from time to time in the future have in effect restrictions on its ability to serve District water by reason of facility and water shortages for extended periods of time. The District may consider deferral agreements in its planning for facilities and sources of water. Termination of a deferral agreement and payment of deferred and future water availability charges shall not necessarily entitle the parcel(s) to receive District water. Priority to restricted District service may be afforded to parcels that have not deferred payment of water availability charges.

- (e)      Appeal to Board of Directors. If a request for deferral is denied by the General Manager, the owner may file an appeal with the Board of Directors. Review of the appeal and the decision of the Board shall be made within 60 days after submitted by the owner. The decision of the Board shall be final.

Per Ordinance No. 1995-9 Adopted 9/5/1995 [Sec. 165.2(e)]  
Per Ordinance No. 2007-10 Adopted 7/16/2007 {Sec. 165.2(d)}

Article 165      Water Availability Charges (Cont'd.)

Sec. 165.2    Deferral/Exemption Policy (Cont'd.)

- (f)    General Manager Provisions. In order to insure that the intent of this section is being met, the General Manager shall:
1.    Have prepared the necessary procedures, agreements and documents that will implement the provisions of this code.
  2.    Maintain a record of all property approved for deferral of availability charges.
  3.    Report annually to the Board of Directors, showing all property approved for deferral and accrued interest thereon.
  4.    Cause every deferred property to be inspected annually to verify compliance with the agreement and this ordinance and report to the Board of Directors any instances where the terms of the agreement are being violated.
  5.    Take such other action or procedures considered appropriate.

Per Ordinance No. 1995-9 Adopted 9/5/1995 [Sec. 165.2(f)]