

DRAFT
ORDINANCE NO. 93

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING WATER USE CREDIT RULES**

FINDINGS

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. This ordinance shall amend the process by which the Monterey Peninsula Water Management District allows credit for permanent abandonment of water use. This ordinance enables future use of a portion of the water which is shown to have been abandoned.
4. This ordinance requires a portion of any abandoned water use to be credited toward the Monterey Peninsula Water Management District long term conservation goal upon criteria used for the District's Water Allocation EIR. This ordinance further requires a portion of any abandoned water use to be credited toward a community benefit reserve that shall be administered by the local land use jurisdiction.
5. This ordinance shall allow limited re-use of water savings from toilet retrofits and other permanent abandonment of existing water use. Allowing re-use of saved water benefits the needs of the citizens of the District.
6. This ordinance allows minor alteration in the amount, timing and location of water used by water distribution systems, including the California American Water System. By reason of the increment of water set aside for water conservation and community benefit purposes, the board of directors determines this ordinance shall not allow expansion of water use beyond that which was previously existing. The Board therefore finds that this measure consists of activities that fall within Class 1 of CEQA Categorical Exemptions, as provided in section 15301 of the CEQA Guidelines.

- 7. This ordinance shall amend Rule No. 25.5 ("Water Use Credits") of the Rules and Regulations of the District.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the Water Use Credit Amendment Ordinance of the Monterey Peninsula Water Management District.

Section Two: Purpose

This ordinance revises and updates existing water use credit provisions which are set forth in District Rule 25.5. Rule 25.5 was originally added to the District Rules and Regulations on June 15, 1992 by Ordinance No. 60, and was first amended by Ordinance No. 64 on October 5, 1992, and again amended by Ordinance No. 71 on December 20, 1993.

Section Three: Amendment of Rule 25.5 (Water Use Credits)

District Rule 25.5 shall be amended by deleting the portion set forth in ~~strikeout type~~ (~~strikeout~~) and adding the portion set forth in italicized and underlined bold face type (***bold face***). In all other respects, the text of District Rule 25.5 shall be republished by this ordinance.

A. Except where a permit has been canceled, returned or revoked under these Rules, a Person may receive a Water Use Credit for the permanent abandonment of some or all of the prior water use on that Site by one of the methods set forth in this Rule. A Water Use Credit shall enable the later use of that water on that same Site.

1. A Person may apply to the District for a Water Use Credit in advance of the abandonment of capacity for water use which that Person may cause on that Site. In such a circumstance, District staff:

- (1) shall verify that the reduction is one which is permanent, ***and***
- (2) shall quantify the capacity for water use which remains, ***and***
- (3) shall quantify the reduced water use (the abandoned capacity), ***and***
- (4) shall ~~quantify the~~ ***deduct 15% from the quantity determined in step 3 above, and apply that*** increment of reduction toward ~~which exceeds~~ the District's target of 15% conservation based upon the criteria used for the Water Allocation EIR, and
- (5) ***shall also deduct 15% from the quantity determined in step 3 above, and transfer that increment of reduction into the allocation for the city or county allocation***

applicable for that site, as a community benefit reserve to be used in the sole discretion of that jurisdiction; and

- (5) shall provide written confirmation of the Water Use Credit based upon the quantity set forth in element (4) amount determined in step 3, less the amounts determined in steps 4 and 5 above.

Credit shall not be given for any reduction which occurs by reason of a District mandated or Cal-Am sponsored program (e.g. retrofit rebates on-resale) where public or utility funds have paid for the reduction in water use.

A Water Use Credit obtained pursuant to this method may be applied to, and shall allow future water use on that Site at any time within a period of 60 months. After the 60th month, renewal of this Water Use Credit shall be allowed only upon proof by the applicant that some or all water savings represented by that Credit are current. If all savings are not current, a pro-rata reduction shall occur. A single renewal period of 60 months shall be allowed; thereafter any remaining unused Water Use Credit shall expire. Water Use Credits shall not be transferable to any other Site.

2. A Person who has not applied in advance to the District for a Water Use Credit (in advance of the abandonment of the capacity for water use) may still request that a Credit be given based on prior reductions in water use capacity which occurred on that Site within the preceding eighteen (18) months. In such a circumstance the applicant shall have the burden to quantify and verify both the reduction of water use capacity, and the date such reduction occurred. District staff shall determine the increment of reduction which exceeds the District's target of 15% conservation as set forth in the Allocation EIR and shall determine the effective date for that reduction in capacity for water use.

For prior reductions in water use which meet the qualifying criteria stated above, District staff:

- (1) shall verify that the reduction is one which is permanent, and
- (2) shall quantify the capacity for water use which remains, and
- (3) shall quantify the reduced water use (the abandoned capacity), and
- (4) shall deduct 15% from the quantity determined in step 3 above, and apply that increment of reduction toward the District's target of 15% conservation based upon the criteria used for the Water Allocation EIR, and
- (5) shall also deduct 15% from the quantity determined in step 3 above, and transfer that increment of reduction into the allocation for the city or county allocation applicable for that site, as a community benefit reserve to be used in the sole discretion of that jurisdiction; and
- (6) shall provide written confirmation of the Water Use Credit based upon amount determined in step 3, less the amounts determined in steps 4 and 5 above.

Credit shall not be given for any reduction which occurs by reason of a District ~~mandated~~ or Cal-Am sponsored program (e.g. retrofit rebates ~~on-resale~~) where public or utility funds have paid for the reduction in water use. Credit shall not be given for any reduction which was completed more than eighteen (18) months prior to the date of the application for the Water Use Credit. The quantity of water determined by staff to be available for a Water Use Credit under this method, once the Water Use Credit has been granted, may be applied to, and shall allow future water use on that Site within thirty (30) months from the date the reduction first occurred, and upon proof by the applicant that those water savings are still current. After the 30th month, renewal of this Water Use Credit shall be allowed only upon proof by the applicant that some or all water savings represented by that Credit are current. If all savings are not current, a pro-rata reduction shall occur. A single renewal period of thirty (30) months shall be allowed; thereafter any remaining Water Use Credit shall expire. Water Use Credits shall not be transferable to any other Site. Residential Water Use Credits shall not be transferable to any other Site.

3. A Water Use Credit shall provide the basis for issuance of a permit for an Intensified Water Use on that Site provided (1) the credit is current (has not expired), and (2) provided the abandoned capacity (saved water) forming the basis for the Water Use Credit is determined not yet to have been used on that Site. There shall be no connection charge assessed for the capacity for water used pursuant to any Water Use Credit. Connection charges, however, shall apply to the capacity for water use which exceeds the Water Use Credit, or for any expansion of use following the expiration of the Water Use Credit. No refund shall accrue by reason of water use reduction, or abandonment of capacity, whether or not reflected by a Water Use Credit. Issuance of a Water Use Credit shall not result in any change to a Jurisdiction's Allocation. Use of any Water Use Credit shall similarly not cause a change to a Jurisdiction's Allocation.

4. Any water added to a city or county jurisdiction's water allocation by reason of paragraph A 1 (step 5) or A 2 (step 5) shall be a community benefit reserve for the exclusive benefit of that jurisdiction. Use of this water shall be in the sole discretion of that jurisdiction.

Section Four:

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. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Five: Effective Date and Sunset

This ordinance shall be given effect at 12:01 a.m. on March 1, 1999. This Ordinance shall not have a sunset date.

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 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 portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director _____, and second by Director _____, the foregoing ordinance is adopted upon this _____ day of _____, 1999, by the following vote:

AYES:

NAYS:

ABSENT:

I, Darby Fuerst, 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 on the _____ day of _____.

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

Darby W. Fuerst, Secretary to the Board