

**FINAL  
ORDINANCE NO. 115**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
CLARIFYING WATER CREDIT RULES AND SETTING FEES FOR WATER USE  
CREDIT DOCUMENTATION**

**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. The terms defined in this ordinance clarify operations of the existing water permit process.
4. This ordinance revises Rule 25.5 to clarify the reuse of water on a single Site.
5. This ordinance clarifies when exterior Water Use Credit is available on a vacant lot or lot occupied by an uninhabitable structure.
6. This ordinance clarifies the length of time a water permit that utilizes a Water Use Credit is valid.
7. This ordinance compiles all rules related to cancellation of permits into one Rule. This compilation adds Rules 23 C (7) and 27 to Rule 25, Cancellation of Permits.
8. This ordinance establishes processing fees for documenting Water Use Credits pursuant to Rule 25.5.
9. This ordinance shall revise, amend and republish Rules 23, 25, 25.5, 27 and 60 of the Rules and Regulations of the Water Management District.
10. This ordinance shall be reviewed and approved under CEQA (California Environmental Quality Act) based upon a Negative Declaration.

NOW THEREFORE be it ordained as follows:

## ORDINANCE

### **Section One:            Short Title**

This ordinance shall be known as the MPWMD 2004 On-Site Credit Clarification Ordinance.

### **Section Two:            Purpose**

This ordinance amends the Rules to clarify the use of on-Site Water Use Credits and amends the provisions of the Rules related to cancellation of permits. This ordinance also establishes processing fees for documentation of Water Use Credits.

### **Section Three:            Amendment Of Rule 23 C: Criteria To Process Applications To Intensify Water Use**

A. The following Rule 23 C (7) shall be deleted from Rule 24 H of the District Rules and Regulations in its entirety and shall be added as Rule 25-D.

~~6. Adjustment of Allocation for Abandoned or Revoked Permits.~~

~~1. Any permitted water capacity which is not used because of an abandoned, expired, revoked, or returned permit shall be returned to the Allocation applicable to that Jurisdiction (or the District Reserve) upon the expiration or revocation of that permit.~~

~~2. Issuance of a Water Use Credit pursuant to Rule 25 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.~~

B. Rule 23 C (8) shall be renumbered as Rule 23 C (7).

### **Section Four:            Deletion of Rule 27: Revocation of Permit**

The following Rule 27 shall be deleted in its entirety. The text of this rule shall be relocated and shall become Rule 25 C, Cancellation of Permits.

~~The District Board may suspend or revoke any permit issued pursuant to these Rules and Regulations whenever it finds any of the following:~~

~~1. That any requirement or condition of the permit is not being met.~~

~~2. That the permittee has violated any provision of these Rules and Regulations.~~

~~3. That the permittee has misrepresented intentionally or negligently any material fact in this application, or in any supporting documents, for his permit.~~

**Section Five: Amendment of Rule 25.5: Water Credits**

- A. Rule 25.5 shall be revised as shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~):

**RULE 25.5 WATER USE CREDITS**

- 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.~~ *Water Use Credits shall be documented by written correspondence between the District and the property owner, and shall remain valid unless prohibited by this Rule. Water Use Credits shall not be documented by notice on a property title, except as specified in Rule 25 B.*
1. 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, (2) shall quantify the capacity for water use which remains, (3) shall quantify the reduced water use (the abandoned capacity), (4) shall quantify the increment of reduction which exceeds the District's target of 15% conservation based upon the criteria used for the Water Allocation EIR, and (5) shall provide written confirmation of the Water Use Credit based upon the quantity set forth in element (4) above. Credit shall not be given for any reduction, which occurs by reason of a District mandated program (e.g. retrofit-on-resale). 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. Credit shall not be given for any reduction, which occurs by reason of a District mandated program (e.g. retrofit-on-resale); 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.

***B. When a Water Use Credit on a Site results from demolition of a building that straddled a lot line, the property owner shall specify in writing the quantity of water credit assigned to each of the lots formerly occupied by that building. This designation shall be recorded upon the title of each of the lots.***

***C. A Water Use Credit shall enable the reuse later use of saved that water on that the same Site.***

- 1. Water Use Credits may be moved between one or more structures on the same Site.***
- 2. The District shall not exact a separate calculation for exterior water usage on a vacant lot or lot containing an uninhabitable structure when the owner of the Site has submitted clear and convincing evidence of landscaping and irrigation that was installed by and has been consistently maintained since March 11, 1985.***

**Section Six: Amendment of Rule 25: Cancellation of Applications**

Rule 25, Cancellation of Applications, shall be revised as shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~).

**RULE 25 CANCELLATION OF APPLICATIONS PERMITS**

- A. All permits issued pursuant to these regulations which are not completed (completion is defined by Rule 11) shall expire upon the date specified by each jurisdiction as shown on the permit. For any permit that does not bear a cancellation date, that permit, to the extent it has not been completed by the installation of a water meter, or to the extent permitted fixtures have not been installed, shall expire one (1) year following the date of issuance. Persons possessing a current and valid Water Release Form whose permits have expired or have been canceled may re-apply for a new permit pursuant to Rule 20. The District shall not accept any Water Release Form after the date specified by any jurisdiction. A Water Release Form will be required for all permit applications, or requests for extension of a permit. The District, however, shall not extend a permit for any Site on which a permit violation has been noticed, but has not been corrected.
- B. *All permits issued by means of a Water Use Credit shall expire two (2) years following the date of issuance. Persons possessing a current and valid Water Release Form whose permits have expired may re-apply for a new permit pursuant to Rule 20.*
- C. *The District Board may suspend or revoke any permit issued pursuant to these Rules and Regulations whenever it finds any of the following:*
1. *That any requirement or condition of the permit is not being met.*
  2. *That the permittee property owner has violated any provision of these Rules and Regulations.*
  3. *That the permittee property owner or his agent has misrepresented intentionally or negligently any material fact in this the application, or in any supporting documents, for his permit.*
- D. *Any permitted water capacity which is not used because of an abandoned, expired, revoked, or returned permit shall be returned to the Allocation applicable to that Jurisdiction (or the District Reserve) upon the expiration or revocation of that permit.*
- E. *Issuance of a Water Use Credit pursuant to Rule 25.5 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.*
- F. *Refunds shall be issued according to Rule 24-H, Connection Charge Refunds.*

**Section Seven:**        **Amendment of Rule 60, Permit Fees**

A. Rule 60 G shall be revised as shown in bold italics (*bold italics*) and ~~strikeout (strikethrough)~~:

G. **Final Review at First Use or Occupancy.**

1. Processing and Plan Check fee for the recalculation of final connection fees pursuant to Rule 24 B: \$70.00 per hour of staff time for all necessary efforts in excess of five (5) hours per Site requiring recalculation.
2. ***Administrative fee to review and process applications for fixtures added without proper permit: \$50 per unpermitted fixture.***

B. The following text in *bold italics* should be added as Rule 60 I:

I. **Administrative fee for each application to document a Water Use Credit pursuant to Rule 25.5**

1. ***Water Use Credit for residential installation of Qualifying Devices as defined in Rule 11: \$150***
2. ***All other applications for Water Use Credit:***
  - a. ***Residential Water Use Credit, including documentation of demolition: \$250***
  - b. ***Commercial Water Use Credit***
    - (1) ***Documentation of demolition: \$250***
    - (2) ***Documentation of retrofit: \$1,120 for up to sixteen (16) hours of staff time***
    - (3) ***Unusually complex applications (those applications that exceed 16 hours to process): \$70.00 per hour***
    - (4) ***Consultant fees to be paid by applicant at a rate to be determined when independent consultation is required to verify water savings***

**Section Eight:**        **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 Nine:**        **Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on July 1, 2004.

This Ordinance shall not have a sunset date.

**Section Ten:**            **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 by Director Potter, and second by Director Knight, the foregoing ordinance is adopted upon this 17th day of May 2004, by the following vote:

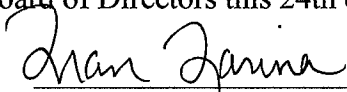
AYES: Directors Edwards, Foy, Knight, Pendergrass, Potter

NAYS: Directors Markey and Lehman

ABSENT: None.

I, Fran Farina, 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 17th day of May 2004.

Witness my hand and seal of the Board of Directors this 24th day of May 2004.



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Fran Farina, Secretary to the Board

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