

**FINAL**

**ORDINANCE NO. 121**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
MODIFYING ON-SITE WATER CREDIT RULES  
APPLICABLE TO REDEVELOPMENT PROJECTS**

**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. Existing District Regulations, set forth at Rule 25, allow on-site water credits to be created, but limit their use on the originating site to a term not to exceed ten (10) years. By comparison, a parallel District Regulation set forth at Rule 28 B, allows a water credit to be transferred to a public jurisdiction's allocation for use on any site, without an expiration limit. Rule 25 was originally added to the District Rules and Regulations by Ordinance No. 60 (6/15/92) and was thereafter amended by Ordinance No. 64 (10/05/92) and by Ordinance No. 71 (12/20/93).
4. This ordinance modifies the on-site water credits provision of District Rule 25 to extend the expiration limit when the water credit is associated with a Redevelopment Project Site pursuant to the Community Redevelopment Law, found at California Health and Safety Code, section 33000, et seq. This ordinance shall modify District Rule 28 B. This ordinance shall also add a definition for the term "Redevelopment Project" to Rule 11, and clarify the meaning of the term "Site" within that same Rule.
5. The modifications enacted by this ordinance are intended to facilitate Redevelopment Project planning and implementation. Redevelopment Project approval, land acquisition and financing processes are often complex. The time required to implement a Redevelopment Projects can often exceed the ten (10) year limit set forth in Rule 25. A jurisdiction undertaking a Redevelopment Project facing such limits must transfer the water credit to its allocation in order to enable re-use on the affected site. This mechanism is cumbersome, and affords no practical advantage.
6. This ordinance shall amend and republish the Rules and Regulations of the Water Management District.

NOW THEREFORE be it ordained as follows:

## ORDINANCE

### Section One:            Short Title

This ordinance shall be known as the 2005 On-Site Redevelopment Project Water Credit Ordinance of the Monterey Peninsula Water Management District.

### Section Two:            Purpose

This ordinance shall streamline on-site water credit provisions to facilitate governmental planning and operations for Redevelopment Project Site pursuant to the Community Redevelopment Law, found at California Health and Safety Code, section 33000, et seq. The ten (10) year limit for such projects shall be extended twice, in five (5) year increments, to afford a maximum period of twenty (20) years to use on-site water credits in connection with a Redevelopment Project, as that term is defined by Health and Safety Code, section 33010.

A second purpose of this ordinance is to clarify the meaning of the term "Site" within Rule 11 to resolve an ambiguity relating to the ownership of contiguous parcels of property.

### Section Three:        Amendment to Rule 25.5

Rule 25.5 shall be amended to incorporate a new subparagraph, A (4), as shown below in *bold italic* type face. Except for this addition, no other change is made to Rule 25.5

#### 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.
  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 or sponsored 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 or sponsored 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.
4. *A Water Use Credit on a Redevelopment Project site may, in addition to the time limits and in the manner set forth above, have its expiration date extended for two (2) additional periods of sixty (60) months each, to afford any such Redevelopment Project a maximum period of two hundred forty (240) months to use that credit.*

#### **Section Four: Amendments to Rule 11**

- A. The definition of the term "Redevelopment Project" shall be added to Rule 11, and defined as shown below in *bold italic* type face.

***REDEVELOPMENT PROJECT*** – *"Redevelopment Project" shall mean any undertaking in accord with the Community Redevelopment Law, found at California Health and Safety Code, section 33000, et seq. This term shall be given the same meaning as the term "Redevelopment Project" set forth in section 33010 of that Code.*

B. The definition of the term "Site" as set forth in Rule 11 shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

SITE – "***Site***" shall mean any unit of land which qualifies as a parcel or lot under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other parcel (or are separated only by a road or easement), and (2) ~~for which there is unity of ownership~~ ***which have identical owners***, and (3) which have an identical present use. The term "Site" shall be given the same meaning as the term "Parcel".

**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.

**Section Six: Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading. This Ordinance shall not have a sunset date.

**Section Seven: 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 Pendergrass, and second by Director Edwards, the foregoing ordinance is adopted upon this 15th day of August, 2005, by the following vote:

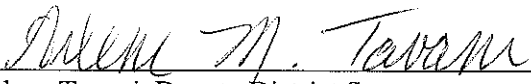
AYES: Directors Edwards, Foy, Knight, Lehman, Pendergrass and Potter

NAYS: None

ABSENT: Director Markey

I, David A. Berger, 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 15th day of August 2005.

Witness my hand and seal of the Board of Directors this 13th day of September 2005.

  
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Arlene Tavani, Deputy District Secretary