

**-- SECOND CORRECTED FINAL --  
ORDINANCE NO. 125**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
CLARIFYING RULES RELATED TO WATER PERMITS AND WATER CREDITS**

**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 permit and water credit processes and provides new terms to further improve interpretation of the rules and policies of the Monterey Peninsula Water Management District.
4. This ordinance shall not apply to complete applications that are received prior to the effective date of the ordinance.
5. This ordinance adds definitions to Rule 11 associated with the water permit and water credit process and modifies other definitions to conform to the District rules, policies and practices.
6. This ordinance adds “modifications” to the list of actions that require water permits. (Rule 20-B)
7. This ordinance revises Rule 20 to clarify that water permits are required for all connections and modifications to a connection to a water distribution system and clarifies specific actions that require a water permit to conform to current water permit practices. (Rule 20-B)
8. This ordinance amends and clarifies Rule 21 by identifying documents required for a complete water permit application, including the prerequisite that environmental review be completed. (Rule 21-B-1)
9. This ordinance expands upon language currently shown on Rule 24, Table I: Residential Fixture Unit Count, in reference to a water budget for landscaping when a lot size exceeds 10,000 square-feet in size. Rule 21 adds a requirement for a landscape water budget, calculation of the Maximum Applied Water Allowance (MAWA), and submittal of three copies of the landscape plan for new exterior use when the Site exceeds 10,000 square-feet, when the project is non-residential, or when the project involves mixed uses or multi-family housing. (Rule 21-B-3)

10. This ordinance clarifies in Rule 21-C that an application for amendment to a water distribution system that includes an expansion of the system beyond its prior authorized system capacity limit or its prior authorized expansion capacity limit is processed as an amendment to the permit to create/establish a water distribution system under Rule 21-A. (Rule 21-C-1)
11. This ordinance deletes Rule 21-D, Application for Appeal, and Rule 21-E, Application for Variance, as duplicative of existing Rules 70 and 90.
12. This ordinance deletes the current text of Rule 23 and replaces it with similar text focused on the process of preparing and issuing water permits.
13. This ordinance deletes all references to the former District Reserve Allocation which was repealed in February 1995 with the adoption of Ordinance No. 73.
14. This ordinance adds to Rule 23 compliance with the limitations of Regulation XV, Expanded Water Conservation and Standby Rationing Plan, as a prerequisite to processing and issuing a water permit. Limitations applicable to water permits must be reviewed prior to processing a water permit application. (Rule 23-A-1-b)
15. This ordinance allows an exception to the limitation discussed in Finding 11 for fire suppression systems and for installation of individual water meters for users previously served by one water meter. Individual metering of users formerly served by a master meter is encouraged by the District as a way to promote water conservation. (Rule 23-A-1-b)
16. This ordinance requires compliance with previously issued water permits and compliance with District Rules and Regulations prior to action on an application for a new or amended water permit. (Rule 23-A-1-d)
17. This ordinance adds a provision that the General Manager shall ensure that the total quantity of water permitted for all projects, including the current application, does not exceed the production limit and/or connection limit of the water distribution system serving the project site prior to approving an application that involves an intensification of use. (Rule 23-A-1-f)
18. This ordinance specifies that without water from an allocation or water entitlement, or a water credit to offset a proposed new use, a water permit application is to be denied. (Rule 23-A-1-g)
19. This ordinance adds to Rule 23, the Board's requirement for recordation of deed restrictions prior to issuance of a water permit. (Rule 23-A-1-j)
20. This ordinance states that no fees are due for fire suppression systems or meter splits. (Rule 23-A-1-l)
21. This ordinance specifies that the construction plans reviewed as part of a water permit application will be stamped with the District's permit approval stamp. (Rule 23-A-1-m)
22. This ordinance requires the General Manager to review a pending water permit with the applicant/agent prior to releasing the water permit. (Rule 23-A-1-n)

23. This ordinance states that an amended water permit is required if the completed project differs from the permitted project. (Rule 23-A-1-o)
24. This ordinance specifies that the District will notify the person contacted during the inspection as well as the owner of record by mailing the noncompliance notice after completion of an inspection. Notices will include a specific date for correcting any violation(s). This ordinance further states that if a correction is not made by the deadline, the District may take action to permit the noncompliance fixture(s)/uses and that such action may result in a debit to an allocation or entitlement. (Rule 23-A-1-p)
25. This ordinance directs that violation notices that could result in a debit to jurisdiction's allocation will be copied to the jurisdiction. (Rule 23-A-1-p)
26. This ordinance provides for a refund of connection charges and/or a refund of water credit or entitlement water in the event that the completed project is less intensive than permitted. (Rule 23-A-1-p)
27. This ordinance revises the temporary water permit procedure to conform to the current permit process (i.e. Ordinance No. 60, adopted June 15, 1992). The documents required for a temporary water permit are identified. (Rule 23-A-2-a)
28. This ordinance enacts a specific 24-month term for temporary water permits in place of a "one year" term or "the date specified on the permit". (Rule 23-A-2-c)
29. This ordinance explains that water previously debited from a jurisdiction's water allocation for a temporary water permit will be returned after verification that the temporary water permit/connection has been abandoned. (Rule 23-A-2-e)
30. This ordinance specifies that a conditional water permit does not allow the setting of any water meter or the start of any new or expanded water use until the conditions have been met and a water permit has been issued pursuant to Rules 21 and 23. (Rule 23-A-3-g)
31. This ordinance clarifies the timeframe for applying to extend a conditional water permit. This replaces existing language with a specific time window (i.e. no earlier than 90 days and no later than 45 days prior to expiration). (Rule 23-A-3-i)
32. This ordinance adds mandatory conditions of approval for water permits to Rule 23. The conditions are currently in use but not codified in the Rules and Regulations. (Rule 23-B-1)
33. This ordinance requires the project site to meet all applicable water conservation requirements of Regulations XIV and XV as a condition of a water permit. (Rule 23-B-1-a)
34. This ordinance includes Board policy requiring dual water services in the Sleepy Hollow subdivision in Carmel Valley: Cal-Am use for interior uses, and Sleepy Hollow water for exterior/fire suppression/irrigation uses. (Rule 23-B-3)

35. This ordinance deletes existing Rule 24 and replaces it with a revised and restructured Rule 24 that conforms to current practices. The rule has been refocused from calculating connection charges to forecasting a project's future estimated annual water use capacity and then assessing the appropriate connection charge. The proposed rule summarizes the entire process for determining if there is an increase in water use capacity. (Rule 24)
36. This ordinance provides an explanation for the reduction of estimated water use capacity that occurs as a result of applying a water credit to the water permit application. (Rule 24-A-1-d)
37. This ordinance introduces a new term "adjusted water use capacity" to refer to the final estimated water demand and clarifies the action to be taken under different scenarios. (Rule 24-A-1-d)
38. This ordinance adds dual flush ultra-low flush toilets to the Residential Fixture Unit Count Values (Rule 24, Table 1) and to the table showing ultra-low consumption appliance credits (Rule 25.5, Table 4). Dual flush ultra-low flush toilets have been proven to save at least as much water as one-gallon ULF models and offer the user the option of a half-flush or a full flush. (Rule 24, Table 1)
39. This ordinance adds a reduced landscape factor for properties that are subject to jurisdiction-mandated and enforced native landscape requirements. This restriction shall also be enforced by District deed restriction. (Rule 24-A-5-c)
40. This ordinance clarifies that a dishwasher may be installed in a kitchen without a water permit when a dishwasher was not previously installed. This existing practice reduces water use in the kitchen, as washing dishes by hand uses more water than using a dishwasher. (Rule 24, Table 1)
41. This ordinance clarifies the special fixture unit accounting (to add a second bathroom) to state that the provision applies to single-family residential properties that have less than two bathrooms. The current rule states that it applies to homes with only one bathroom, contradicting language later in the rule that speaks to adding the missing fixtures to allow two complete bathrooms. (Rule 24-A-3)
42. This ordinance adds the Board's requirement to record a deed restriction listing all water fixtures permitted for the property and indicating which fixtures are part of the "special fixture unit accounting" (i.e. fixtures that do not qualify for water credits upon removal) on properties that utilize the second bathroom provision. The requirement for District access to water records on properties that utilize the second bathroom provision is also added. Both procedures are consistent with language in Ordinance No. 98, adopted April 16, 2001, and Ordinance No. 114, adopted May 24, 2004. (Rule 24-A-3-j and k)
43. This ordinance eliminates a conflict in the existing Rule 24 whereby an applicant could not apply for both a master bathroom and a second bathroom in the same application. This change clarifies that the master bathroom fixture unit value (adopted with Ordinance No. 80 on November 20, 1995) cannot be applied to a second bathroom added pursuant to the second bathroom provision. (Rule 24-A-4-b)

44. This ordinance adds specific language to clarify the exterior residential and non-residential demand calculation methodology and the Maximum Applied Water Allowance (MAWA) calculation. The methodology applies to new construction on residential sites that exceed 10,000 square-foot, and to non-residential, mixed use and multi-family new construction. (Rule 24-A-5 and Rule 24-B-2)
45. This ordinance characterizes the fixture unit to acre-foot conversion as one fixture unit equals 0.01 acre-foot and specifies that the use of the fixture unit conversion shall be to the third decimal place. (Rule 24-A-6)
46. Similarly, this ordinance characterizes that non-residential water use capacity shall be rounded to the third decimal place. (Rule 24-B-3)
47. This ordinance allows changes to Table 2: Non-Residential Water Use Factors, to be made by Board resolution. (Rule 24-B)
48. This ordinance explains the area used to determine changes to demand caused by tenant improvements. (Rule 24-B-1-a-(2))
49. This ordinance clarifies that the higher non-residential use category will be used when a non-residential project qualifies for more than one use category. (Rule 24-B-1-b)
50. This ordinance clarifies the process for reviewing and approving new water factors. (Rule 24-B-1-d)
51. This ordinance amends Rule 24, Table 2: Non-Residential Water Use Factors, Group I, to add nail salons, fast photo processing, dental, medical and veterinary clinics in keeping with current practice. (Rule 24, Table 2)
52. This ordinance amends Rule 24, Table 2: Non-Residential Water Use Factors, Group II, to include coffee shops that are currently defined as "bakery-type" of uses. (Rule 24, Table 2)
53. This ordinance amends Rule 24, Table 2: Non-Residential Water Use Factors, Group III to add a factor for assisted living beds, a revised factor for self-storage approved by the Board on October 17, 2005, and deletes the luxury hotel/living unit factor in keeping with direction from the District Water Demand Committee on May 14, 2003. (Rule 24, Table 2)
54. This ordinance amends Rule 24, Table 2: Non-Residential Water Use Factors, to include a footnote regarding the characterization of dormitory water use as residential in nature as directed by the Board at its February 23, 2006 meeting. (Rule 24, Table 2)
55. This ordinance designates the specific area that can be considered immediately adjacent to a non-residential use. Exterior water use within this perimeter is included in the water use factor. (Rule 24, Table 2)
56. A new non-residential category (modified non-residential uses) has been added to Table 2: Non-Residential Water Use Factors, for properties that have been granted a water credit for installing ultra-low consumption technology. This category is for uses that establish a water

credit by retrofitting and have therefore changed the capacity of the building/use. (Rule 24, Table 2)

57. This ordinance adds Table 3: Connection Charge History to annually document the change in connection charges. This facilitates calculating water permit refunds for permits issued in previous years. (Rule 24, Table 3)
58. This ordinance deletes the monetary residential retrofit credit formerly shown as Rule 24-C-3 for non-mandatory toilet replacements that occur at the time a water permit is issued. This process has been replaced by the District's rebate program.
59. This ordinance deletes language located in existing Rule 24-F referring to a connection charge surcharge that was eliminated with the adoption of Ordinance No. 55 on May 20, 1991.
60. This ordinance deletes language from the current Rule 24-C-3 referring to a minimum connection charge which conflicts with current practices for the calculation and collection of the connection charge. This language was deleted upon the adoption of Ordinance No. 71 on December 20, 1993.
61. This ordinance adds language to incorporate the existing practice related to allowing nonpotable water sources for exterior uses. (Rule 24-E-1-a)
62. This ordinance clarifies that non-residential projects owned by public agencies are subject to review of actual consumption over time and adjustment of debit/connection charges based on historic use. (Rule 24-E-1-c)
63. This ordinance specifies the process to debit and/or refund connection charges and water from an allocation or entitlement for projects with special circumstances. This language mirrors language later in the rule that addresses the adjustment for special circumstances with substantial uncertainty. (Rule 24-E-3)
64. This ordinance clarifies that the General Manager, not the applicant, makes the determination that special circumstances with substantial uncertainty (Rule 24) exist. (Rule 24-E-4)
65. This ordinance adds conditions of approval that have been developed by the Board for approval of special circumstances with substantial uncertainty, including a requirement for a separate water meter for outdoor water uses and a requirement that the applicant enter into an indemnity agreement with the District. (Rule 24-E-6)
66. This ordinance deletes redundant and obsolete language in the Connection Charge Refunds section, formerly Rule 24-H and now Rule 24-F.
67. This ordinance incorporates a long-standing practice which is consistent with a site-specific water permit that refunds of connection charges are made to the title-holder of the property. (Rule 24-F-6)
68. This ordinance makes no changes to the section on Connection Charge Fund Accounting, previously found in Rule 24-J, now appearing in Rule 24-G.

69. This ordinance deletes references to rule numbers in the section on Permit Payment Plans. (Rule 24-H)
70. This ordinance identifies a specific expiration date for water permits (two years) and requires reapplication if a building permit has not been issued. If a building permit has been issued, the water permit runs concurrently. (Rule 25-A)
71. This ordinance changes the authority to suspend a water permit application from the Board to the General Manager while the decision to revoke a water permit remains with the Board. (Rule 25-B and 25-C)
72. This ordinance updates language related to cancellation of water permits to include water entitlements. (Rule 25-D)
73. This ordinance specifies that valid water credits return to the originating site when a permit is cancelled. (Rule 25-D-2)
74. This ordinance deletes the language of Rule 25.5, Water Use Credits, in its entirety and replaces it with a revised and restructured Rule 25.5 that conforms to current practices.
75. This ordinance eliminates the advance and post-reduction application process and the 18-month application window in the former Rule 25.5-A. The two processes for credit have been particularly confusing to the public.
76. This ordinance clarifies that water savings from mandatory District programs will not result in a Water Use Credit and that such savings will be permanently reserved as contributions to the District's 15 percent water conservation goal. (Rule 25.5-B)
77. This ordinance sets forth specific procedures for quantifying the abandoned capacity for water use. (Rule 25.5-E-3)
78. This ordinance clarifies the process for documenting a water use credit and adds clear direction for calculating a water use credit using Tables 1 and 2. This ordinance also clarifies when the use of the non-residential water use factors are not appropriate. (Rule 25.5-F-2)
79. This ordinance adds Table 4: Ultra-Low Consumption Appliance Credits, and makes the table amendable by Board Resolution. Water use credits for installation of ultra-low consumption appliances were approved by the Board upon adoption of Ordinance No. 64, adopted October 5, 1992. (Rule 25.5, Table 4)
80. This ordinance adds a process for determining water use credits for non-residential retrofits. (Rule 25.5-F-4-d)
81. This ordinance specifies when consumption records will be used to review historic non-residential use. (Rule 25.5-F-4-d)

82. This ordinance adds a requirement for independent third party review if adequate water records are not available. This was recommended by the Water Demand Committee on May 14, 2003, and has been utilized successfully (e.g. installation of waterless urinals and a SOMAT disposal system at the Defense Language Institute). (Rule 25.5-F-4-d)
83. This ordinance specifies that an independent third party review will be conducted before the District considers a water use credit when credit is requested prior to documented water savings. (Rule 25.5-F-4-d-(2))
84. This ordinance clarifies that when water consumption records are used to establish a water use credit, the site must have been retrofit with low water use plumbing fixtures for the full water record or the District will deduct 15 percent from the water use credit as a contribution to the District's water conservation goal. (Rule 25.5-F-4-d (3))
85. This ordinance adds a requirement for a deed restriction when a water use credit is used to offset new water use on a water permit. The deed restriction language has been approved by the Board. (Rule 25.5-G-2)
86. This ordinance adds a list of examples of acceptable evidence to document historic exterior water use. This action is required to avoid the need for an additional increment of water, and the connection charge associated with that increment of water, on a site where previous irrigation can be documented. (Rule 25.5-I-2)
87. This ordinance clarifies the actions to be taken when disconnecting from a water distribution system. (Rule 25.5-I-3)
88. This ordinance clarifies the current permit process date (March 1, 1985) and states that uses in place at that time, or permitted after that date, may be continued if the use has not been permanently abandoned. (Rule 25.5-J)
89. This ordinance changes authority from the Board to the General Manager to approve resubmission of a denied application. (Rule 26)
90. This ordinance states that a water permit is site specific (i.e. attached to a specific parcel). (Rule 28-A-1)
91. This ordinance amends the process to transfer a water permit to another name. A water permit that is transferred to another (e.g. transfer of property ownership) will be reprinted with the new name. (Rule 28-A-2)
92. This ordinance does not modify Rule 28-B.
93. This ordinance relocates the public open space transfer rule from Rule 24-B-2 to Rule 28-C and clarifies that public open space water credit transfers must originate from open space irrigation. (Rule 28-C)
94. This ordinance requires recordation of conditions of the transfer of public open space water credits on both the originating and receiving sites. (Rule 28-C-7)



95. This ordinance updates language related to water allocations to include water entitlements. (Rule 30-C)
96. This ordinance eliminates inactive language related to conservation savings. The language that allows water credit in excess of 15 percent savings to revert to the jurisdiction has been deleted as other processes to transfer water credits were added to the Rules. (Rule 30-C)
97. This ordinance shall revise, amend and republish Rules 11, 20, 21, 23, 24, 25, 25.5, 26, 28 and 30 of the Rules and Regulations of the Water Management District.
98. This ordinance has been 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 2006 Water Permit and Water Credit Clarification Ordinance of the Monterey Peninsula Water Management District.

### Section Two:        Purpose

This ordinance amends the Rules to clarify the processes related to the administration of water permits and water credits. This ordinance updates the definitions used by the District and simplifies the language of the current Rules related to water permits and water credits to reflect current practices.

### Section Three:        Amendment of Rule 11 (Definitions)

- A. All terms defined by Rule 11 of the Rules and Regulations of the District shall be capitalized throughout the Rules and Regulations.
- B. Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below and shall be permanently added to or deleted from Rule 11, Definitions, of the Rules and Regulations of the District. Revised text is shown in bold italics (***bold italics***) and strikeout (~~strike through~~). Numbering is provided for ease of review.
  - 1. ACTIVE WELL - An "Active Well" is a well that has been permitted by the Monterey County Health Department and constructed (or a well that was completed prior to year 1973), and has produced any quantity of water within a ***Reporting Water*** Year (October 1 through September 30). All Active Wells must be registered, and must report water use annually to the District. All new wells must be metered, inspected and approved by the District, and must report annual production using the Water Meter Method, regardless of the amount of production. Refer to MPWMD Rules 52 through 59 for more information.
  - 2. ***ADJUSTED WATER USE CAPACITY*** – "***Adjusted Water Use Capacity***" shall mean ***a project's anticipated maximum annual water demand in acre-feet including any reductions caused by Water Use Credits or other On-Site credits.***
  - 3. ***AF*** – "***AF***" shall be the abbreviation for the term "***Acre-Foot.***"
  - 4. ***AFA*** – "***AFA***" shall be the abbreviation of "***Acre-Feet Annually***", a measurement of ***average annual water use in acre-feet.***
  - 5. ***APPLICANT*** – "***Applicant***" shall mean the person or persons responsible for completing the requirements of an application. The "***Applicant***" is usually the property or business owner.
  - 6. ***ARCHITECTURAL DRAWINGS*** – "***Architectural Drawings***" shall mean a graphic representation of what is being built and shall include specifications to provide details not shown on the plans. ***Architectural Drawings shall be on paper, linen, or other***

*accepted medium. "Architectural Drawings" shall have the same meaning as "Construction Plans."*

7. **BATHROOM** – *"Bathroom" shall mean a room containing a toilet and usually one or more sinks and a bathtub and/or shower.*
8. **CAPACITY** – *"Capacity" shall mean the maximum potential water use which theoretically may occur on a specific Site, based on average water use data for similar structures and uses in the Monterey Peninsula region, as shown by projected water use tables set forth in Rule 24. "Capacity" shall have the same meaning as "Water Use Capacity."*
9. **CISTERN** – *"Cistern" shall mean an artificial reservoir (e.g., an underground tank) for storing water (i.e. groundwater or rainwater).*
10. **CONDITIONAL WATER PERMIT** - *"Conditional Water Permit" shall be a document with specific stipulations, which must be met before a final wWater pPermit is signed and issued. Conditional wWater pPermits are permits, which do not fully comply with the prerequisites to issue a wWater pPermit under District Rule 23. Conditional water permits shall be designated with a "C" followed by a three-digit number.*

~~"Large Project" shall be a commercial project with a projected water demand of over one acre-foot annually.~~

~~"Government Project" shall be a project owned and operated, or financed by a governmental agency.~~

~~"Complex Financial Underwriting" shall be determined at the discretion of the Board of Directors.~~
11. **CONNECTION** - *"Connection" means the point of intersection where a user gains access to the wWater dDistribution sSystem. Where a Wwater-Mmeasuring Ddevice is installed, the wWater dDistribution sSystem shall include the Wwater-Mmeasuring Ddevice and the Ceconnection shall be the nearest point of user access beyond the water Wwater-Mmeasuring Ddevice. Where a Wwater-Mmeasuring Ddevice is removed for a period exceeding 36 months, or is relocated or resized, the former Ceconnection shall cease to exist. Where any Ppermit is transferred in contravention of Rule 28, the Ceconnection (s) affected by said Ppermit shall cease to exist. For the purpose of these Rules and Regulations, access for fire protection and/or access for short-term use through a hydrant meter installed with the consent of the wWater dDistribution sSystem; Operator shall not be deemed a Ceconnection. Each new Ceconnection, based upon projected quantity of water use, shall be categorized as either "Residential", "Commercial/Governmental", or "Industrial" "Non-Residential." as follows:*

Residential Connection: ~~Unless otherwise determined by the General Manager, on a case-by-case determination, any house, apartment or other living quarters intended for residential use.~~

~~Commercial/Governmental Connection:~~ Unless otherwise determined by the General Manager, on a case-by-case determination, any public use, business or manufacturing company that requires a separate water service where the water is not used principally in the manufacturing or processing function including, but not limited to, offices, retail stores, hospitals, churches, gas stations and service businesses.

~~Industrial Connection:~~ Unless otherwise determined by the General Manager, on a case-by-case determination, any manufacturing or processing function, including but not limited to factories, refineries, bottling plants, nurseries, laundries and golf courses.

12. **CONNECTION CHARGE** – *“Connection Charge” shall mean a fee retained by the District in consideration of, and as reimbursement for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District.*
13. **CONSTRUCTION PLANS** – *“Construction Plans” shall mean a graphic representation of what is being built and shall include specifications to provide details not shown on the plans. Construction Plans shall be on paper, linen, or other accepted medium. “Construction Plans” shall have the same meaning as “Architectural Drawings.”*
14. **DAY CARE CENTER** -- *“Day Care Center” means any Non-Residential facility of any capacity, other than Family Child Care, in which the primary purpose is to provide non-medical care and supervision in a group setting for less than 24-hours per day. Care may include personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. This definition does not include educational facilities and is not limited to child care.*
15. ~~DISTRICT RESERVE ALLOCATION~~
16. **DUAL SYSTEM** – *“Dual System” shall mean a water supply that is provided from two separate sources of water.*
17. **ESTIMATED ANNUAL WATER USE CAPACITY** – *“Estimated Annual Water Use Capacity” shall mean an amount of water projected to satisfy the maximum annual water demand for a specific type of use.*
18. **“ESTIMATED ANNUAL WATER USE CAPACITY ADJUSTMENT”** – *“Estimated Annual Water Use Capacity Adjustment” shall mean the final calculation of Estimated Annual Water Use Capacity that occurs following a final inspection for a Water Permit.*
19. **EXISTING NON-RESIDENTIAL USE** – *“Existing Non-Residential Use” shall mean a Non-Residential water use that predates the District’s Water Permit requirements enacted in March 1985.*

20. **EXPAND or EXTEND** – “Expand or Extend” means the addition and/or enlargements of ~~C~~connection or water works to a ~~w~~Water ~~d~~Distribution ~~s~~System, including but not limited to the addition of all meters, conduits, mains, pipes, pipelines, reservoirs, and other facilities used in the storage, transmission, or distribution of water from the ~~S~~source of ~~S~~supply to the ~~C~~connection excluding the replacement of existing water works for purposes of maintenance. ~~Any change in size, location, or relocation of a connection or a water-measuring device which may allow increased water consumption, or any permit transfer pursuant to Rule 28 which may allow increased water consumption shall be deemed an expansion or extension of water distribution system.~~
21. **“EXTERIOR WATER DEMAND CALCULATION”** – *“Exterior Water Demand Calculation” shall mean the amount of water projected to be available and subject to use for exterior purposes (i.e. irrigation, window washing, etc.)*
22. **FAMILY CHILD CARE** – *“Family Child Care” shall mean a Non-Residential use of a Residential home to care for more than eight children. Family Child Care shall require a Water Permit when a state-mandated day care permit is required from the Office of Social Services.*
23. **GOVERNMENTAL** – *“Governmental” shall mean related to government, and shall include local, state and federal government, and public agencies.*
24. **GOVERNMENTAL USE** – *“Governmental Use” shall mean water used by a public entity. The term “Governmental Use” shall be given the same meaning as the term “Public Authority Use”.*
25. **HOT WATER DEMAND PUMPING SYSTEM** - *“Hot ~~W~~water ~~D~~demand ~~P~~pumping ~~S~~system” shall mean electric water pumping a device or systems that quickly (typically within 30 seconds) bring which is capable of supplying hot water at each hot water access point in the structure within ten (10) seconds of demand. to the fixture by drawing water from the hot water tank and returning ambient house temperature water back to the hot water tank where it is heated. When a predetermined set point temperature (usually 5°F above room temperature) in the line near the fixture is reached, the pump stops automatically and hot water is thereby available at the faucet. The pump may be operated by a switch placed next to the fixture or by a remote control. Hot water demand pumping systems shall have the U.S. Environmental Protection Agency Energy Star rating to qualify for a rebate.*
26. **INDUSTRIAL USE** – *“Industrial Use” shall mean water uses associated with industrial premises devoted primarily to, but not limited to factories, refineries, bottling plants, and commercial laundries.*
27. **KITCHEN SINK** - *“Kitchen Sink” shall mean a single large water basin or multiple interconnected basins located in a kitchen room or part of a room that contains built-in cooking appliance(s).*
28. **LANDSCAPING** – *“Landscaping” shall mean the arrangement of plants and other materials that may result in outdoor water use.*

29. **LARGE BATHTUB** - *"Large Bathtub" shall be any bathtub or jacuzzi whirlpool bathtub with a capacity of greater than 55 gallons to overflow as indicated in the manufacturer's product specifications or as detailed by the custom designer. A Large Bathtub may have a single Showerhead that sprays into the bathtub.*
30. **MASTER METER** - *"Master Meter" shall mean a single water meter that supplies water to more than one water User.*
31. **MAIN CALIFORNIA AMERICAN WATER SYSTEM** - *"Main California American Water System" shall mean the California American Water Company system that derives its source of supply from the Carmel River and the Seaside Groundwater Basin.*
32. **MIXED USE WATER-USER** - *"Mixed Use Water-User" shall mean users of water used for domestic or other uses from any Water Distribution System or private well where one or more water meters or Connections or well provides supplies both Residential and Non-Residential uses, often within the same building.*
33. **NEW CONSTRUCTION** - *"New Construction" means any construction of a previously non-existent structure requiring a discretionary or ministerial permit issued after the effective date of this ordinance. "New Construction" shall include additions, modifications, or structural improvements which add square footage to floor space of existing structures.*
34. **NEW STRUCTURE** - *"New Structure" shall mean construction or replacement of a structure or use that requires a Water Permit.*
35. **NON-RESIDENTIAL** - *"Non-Residential" shall mean water uses not associated with Residential use. These uses include Commercial, Industrial, Public Authority, Golf Course, Other Use, Non-Revenue Metered Use, and Reclaimed Water.*
36. **ON-SITE** - *"On-Site" shall mean located on the same Site.*
37. **PARCEL** - *"Parcel" 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 their is unity of have identical ownership, and (3) which have an identical present use. The term "Parcel" shall be given the same meaning as the term "Site".*
38. **PERMANENT ABANDONMENT OF CAPACITY** - *"Permanent Abandonment of Capacity" shall mean a permanent reduction in water demand resulting from abandonment of use or other permanent retrofits.*
39. **PERMANENT ABANDONMENT OF USE** - *"Permanent Abandonment of Use" shall mean the permanent removal of a use, including removal of all plumbing formerly serving the abandoned use.*
40. **POTABLE** - *"Potable" shall mean water that is suitable for drinking.*
41. **PUBLIC AUTHORITY USE** - *"Public Authority Use" shall mean water used by a Public entity. The term "Public Authority Use" shall be given the same meaning as the term "Governmental Use".*

42. PUBLIC WATER CREDIT ACCOUNT – “Public Water Credit Account” shall mean a separate ~~water~~ account maintained by the District to track the amount of Public Water Credits available to a jurisdiction. The Public Water Credit account shall also include ~~commercial~~ **Non-Residential commercial and industrial** water credits that have been transferred to a ~~Jurisdiction~~ **and to track Public Water Credits allowed by Ordinance No. 75 and No. 91**. Water used from this account shall not be assessed a Connection Charge by the District. Processing fees shall apply to permits issued using a Public Water Credit.
43. PUMPING TEST - “Pumping Test” means an experimental pumping of a well to determine yield of that well.
44. REGIONAL AVERAGE METHODOLOGY – “Regional Average Methodology” shall mean the use of local historical water records and measurements for similar types of water Users to establish appropriate indicators or factors for Non-Residential water uses.
45. REQUIRED CONSERVATION MEASURES - “Required Conservation Measures”
- a. Flush sewers with ~~Ssub-P~~otable or ~~Rreclaimed W~~water except in cases of emergency.
  - b. New Construction: Plumbing fixtures must ~~meet or exceed the~~ **be at least as efficient as the** following water conservation requirements: toilets shall not use more than 1.6 gallons per flush maximum; ~~U~~arinals shall use no more than 1.0 gallons per flush; ~~S~~howerheads shall use no more than 2.5 gallons per minute without a separate restriction device and faucets shall have aerators that use no more than 2.2 gallons per minute maximum irrespective of the pressure in the water supply line; hot water systems must be ~~i~~Instant-~~a~~Access **Hot Water Systems**; ~~D~~rip Irrigation must be installed for all shrub or tree areas rather than spray heads, unless plant material or site conditions preclude drip as the most appropriate choice. Hand-held watering may also be used. ~~Instant access shall be defined as providing hot water at the point of service within five (5) seconds.~~
  - c. **Projects that result in added water fixtures or expansion of more than 25 percent of the existing square-footage, and all Non-Residential Changes of Use, shall meet the Additions and remodels must meet the following Required Conservation Measures for New Construction** conservation requirements: If you are adding plumbing fixtures, and/or expanding more than 25% of the existing square footage, new construction requirements must be met throughout the structure with the exception of retrofitting to ~~D~~rip Irrigation and ~~I~~instant-~~A~~access **H**ot **W**ater **S**ystems.
46. RETROFIT CREDIT – “Retrofit Credit” shall mean an amount of water saved by replacing existing high flow toilets (those designed to use greater than 1.6 gallons per flush) with ultra low flush toilets designed to use a maximum of 1.6 gallons per flush. For the purposes of this Ordinance, a credit in the amount of 2.35 fixture units shall be applied to a permit application for each qualifying toilet on a single family residential site.

47. **SINGLE-PARCEL CONNECTION SYSTEM** – “**Single-Parcel eConnection sSystem**” refers to a Water Distribution System providing water to one or more buildings or structures *or providing water for irrigation purposes* on one individual legal Parcel. If the single **Pparcel** is subdivided into two or more separate Parcels, the Water Distribution System is now considered to be a **Mmultiple-Parcel Ceonnection Ssystem**, regardless of Parcel ownership, unless the newly formed legal Parcels each are served by a separate well that has received a well construction permit from the Monterey County Health Department, registered, metered, inspected and been approved by the District within 180 days of the date of the final approval of the subdivision.
48. **SPECIAL CIRCUMSTANCES** – “**Special Circumstances**” shall mean (1) a list of specific circumstances shown in Rule 24-E where the General Manager may adjust the anticipated water demand calculation for a Water Permit, or (2) unusual, uncommon, peculiar, unique or rare situations that require Board consideration.
49. **SPECIAL CIRCUMSTANCES REVIEW FORM** – “**Special Circumstances Review Form**” shall refer to a form provided by the District to facilitate annual water use reporting as required by a condition of approval.
50. **SPECIAL CIRCUMSTANCES WITH SUBSTANTIAL UNCERTAINTY** – “**Special Circumstances with Substantial Uncertainty**” shall mean projects that are so unusual that neither the application of the regional average nor use of actual undisputed quantitative documentation would provide a reliable forecast of the project’s consumption Capacity. Such a project must be unique or have such an unusual location, design or clientele that none of the surveyed commercial categories enumerated in Rule 24 represents a comparable type of use, or there is no quantitative documentation that is available and beyond dispute.
51. **STANDARD BATHTUB** - “**Standard Bathtub**” shall mean a tub for bathing that holds no more than 55 gallons of water to the overflow drain. *A Standard Bathtub may have a single Showerhead that sprays into the bathtub.* Manufacturer’s specifications shall be acceptable evidence of the water capacity of the tub for the purpose of this definition. (See Large Bathtub for bathtubs holding more than 55 gallons of water).
52. **SUSTAINED YIELD OF WELL** - “**Sustained Yield of a Well**” means the continuous production capacity of a well as determined from a **Ppumping Ttest**.
53. **TEMPORARY WATER PERMIT** – “**Temporary Water Permit**” shall mean a Water Permit that provides a short-term authorization to use water for a specific project on a specific Site.
54. **TENANT IMPROVEMENT** – “**Tenant Improvement**” shall mean remodeling or altering a space within an existing Non-Residential building to facilitate use of the building.
55. **ULTRA-LOW CONSUMPTION APPLIANCE CREDIT** – “**Ultra-Low Consumption Appliance Credit**” shall mean a Water Use Credit granted for the installation of ultra-low consumption appliances in Residential uses.



- 56. ULTRA-LOW CONSUMPTION TECHNOLOGY** – *“Ultra-Low Consumption Technology” shall mean technology specifically designed to permanently and mechanically reduce water use below conventional levels.*
- 57. CAL-AM UNACCOUNTED FOR WATER USES** – *“Cal-Am Unaccounted For Water Uses” shall mean the difference between what is recorded at the production meter(s) and the consumption recorded through system meters or reported as estimates of reasonable uses. Unaccounted For Water Uses shall include system leakage.*
- Unaccounted ~~f~~For ~~w~~Water is made up of the following: Unknown leakage, stolen water, unreported fire department usage, unreported street sweeping (and other municipal uses), unrecorded construction water, customer meters registering slow.
- 58. UNDUE HARDSHIP** – *“Undue Hardship” shall mean a condition that exists when compliance with a rule, regulation or condition poses significant difficulty when considered in light of unique circumstances related to the application.*
- 59. USABLE SQUARE-FOOTAGE** – *“Usable Square-Footage” shall mean the floor area within the exclusive control of the tenant.*
- 60. VACANT LOT** – *“Vacant Lot” shall mean an empty legal lot that has no historical water use that can be documented by the methods shown in Rule 25.5-I-2.*
- 61. WATER CREDIT** – *“Water Credit” shall mean a record allowing reuse of a specific quantity of water upon a specific Site. A Water Credit differs from a Water Use Credit in that it is not characterized by a Permanent Abandonment of Use, but may be the result of a temporary cessation of use.*
- 62. WATER ENTITLEMENT** – *“Water Entitlement” shall mean a discrete amount of water that has been set aside by the District for new or Intensified Water Use that shall occur on one or more specific Parcels.*
- 63. WATER PERMIT** – *“Water Permit” shall mean a document issued by the MPWMD that authorizes a specific amount and type of water use on a Site.*
- 64. WATER PERMIT APPROVAL STAMP** – *“Water Permit Approval Stamp” shall mean a seal of approval from the District that is affixed to the Construction Plans submitted to and reviewed by the District.*
- 65. WATER SUPPLY EMERGENCY** – *“Water Supply Emergency” shall mean a declaration pursuant to Regulation XV, Expanded Water Conservation and Standby Rationing Plan, that a water shortage emergency condition prevails within the area.*
- 66. WATER USE CAPACITY** – *“Water Use Capacity” shall mean the maximum potential water use which theoretically may occur, based on average water use data for similar structures and uses in the Monterey Peninsula region, as shown by projected water use tables set forth in Rule 24. “Water Use Capacity” shall have the same meaning as “Capacity.”*

67. ***WATER USE FACTOR*** – “***Water Use Factor***” shall mean a number assigned to one or more specific types of Non-Residential uses that when calculated together with a measurement related to the type of use will result in an estimated annual water demand.
68. ***WATER YEAR*** - “***Water Year***” shall mean the period from ~~July~~ ***October*** 1 of one year to ~~June~~ ***September*** 30 of the succeeding year.
69. ***WELL CAPACITY TEST (AQUIFER PUMPING TEST)*** - A “~~W~~***well*** ~~Ceapacity~~ (~~A~~***aquifer*** ~~P~~***pumping***) ~~T~~***test***” is a continuous pumping test of a well to determine the expected reliable yield of the well. The test shall be conducted in the manner and form appropriate to the hydrogeologic setting of the well, as described in the Implementation Guidelines ***available from the MPWMD*** that accompany this ordinance.

**Section Four:**            **Amendment of Rule 20 (Permits Required)**

Rule 20 shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~). [There are no changes proposed for Rule 20-C.]

**RULE 20 - PERMITS REQUIRED**

**A. PERMIT TO CREATE/ESTABLISH A WATER DISTRIBUTION SYSTEM**

Before any person creates or establishes a ~~w~~***Water*** ~~d~~***Distribution*** ~~s~~***System***, such person shall first obtain a written exemption or ~~P~~***permit*** from the District. Before any person creates or establishes a ~~M~~***mobile*** ~~w~~***Water*** ~~d~~***Distribution*** ~~s~~***System***, such person shall obtain a written ~~P~~***permit*** from the District.

Desalination, reclamation or importation facilities located within the District are not exempt because the ~~S~~***source*** of ~~S~~***supply*** is considered to be the water emanating from a facility within the District.

Persons who hold a valid permit for construction and operation of a ~~w~~***Water*** ~~d~~***Distribution*** ~~s~~***System*** from the Monterey County Health Department, prior to March 12, 1980, or a ~~w~~***Water*** ~~d~~***Distribution*** ~~s~~***System*** in existence prior to that date, shall be deemed to have been issued a ~~P~~***permit*** in compliance with these Rules and Regulations. Persons who filed a completed application to the Monterey County Health Department, date-stamped by the Department on or before March 19, 2001, for construction of a ~~W~~***well*** serving a ~~s~~***Single-p*** ~~Parcel Connection water-distribution~~ ~~s~~***System*** shall be deemed to have been issued a ~~P~~***permit*** in compliance with these Rules and Regulations provided all of the following actions are taken: (1) the applicant receives a valid well construction permit from the Monterey County Health Department, makes the well active, meters the well, has the well inspected by MPWMD and receives an approved MPWMD Water Meter Installation Inspection form issued on or before October 15, 2001; and (2) each ~~W~~***water-G*** ~~athering~~ ~~F~~***facility*** of that system was registered with the District on or before October 15, 2001.

No ~~M~~mobile ~~w~~Water ~~d~~Distribution ~~s~~System shall be issued a ~~P~~permit under the provisions of the previous paragraph. Each such system shall be required to apply for and obtain a ~~P~~permit in accord with Rules 21 and 22.

The ~~E~~expansion ~~C~~capacity ~~L~~limit and ~~S~~system ~~C~~capacity of previously existing systems shall be determined pursuant to Rule 40 (A).

*An Owner or Operator of a Water Distribution System shall not modify, add to or change his/her Source of Supply, location of uses, change annual production or Connection limits, or expand the Service Area unless that person first files an application to do so with the District and receives an amended creation/establishment Permit.*

**B. PERMITS TO EXPAND/EXTEND CONNECT TO OR MODIFY A CONNECTION TO A WATER DISTRIBUTION SYSTEM**

Before any person expands/extends *connects to or modifies a water use Connection to a wWater dDistribution sSystem or to any Mmobile wWater dDistribution sSystem*, such person shall obtain a written ~~P~~permit from the District or the District's delegated agent, as described in District Rules 21, 23 and 24. The addition of any ~~e~~Connection or any ~~water-gathering facility to a water distribution system and/or the intensification of use~~ *modification of an existing water eConnection to any Water Distribution System permitted and regulated by the District shall require a Water Permit.* ~~be deemed an expansion or extension of that system.~~

*The following actions require a Water Permit:*

1. Any change in use, size, location, or relocation of a ~~C~~connection or ~~W~~water-~~M~~measuring ~~D~~device which may allow an ~~I~~intensification of ~~U~~use or increased water consumption.
2. *Each use of an On-Site credit or Water Use Credit.* ~~or any permit transfer pursuant to Rule 28 which may allow an intensification of use or increased water consumption,~~
3. *Any modification to, or relocation of, Residential water fixtures.*
4. *Any Landscaping changes when a landscape plan has been reviewed and approved as a component of a Water Permit.*
5. *Any Change of Use and any expansion of a Non-Residential use to a more intensive use as shown on Table 2 (Rule 24) shall be deemed require a water permit* ~~an expansion or extension of that system.~~
6. *Installing new water fixtures (i.e., other than replacing existing water fixtures) in a Residential use.*

~~A proper applicant for such an expansion/extension permit may be either the owner or operator of the water distribution system, the prospective user of the proposed connection as the real party in interest, or any agent thereof.~~

**D. PERMIT TO UNDERTAKE WORK ON PROJECTS WITHIN THE RIPARIAN CORRIDOR**

Before any individual may undertake any work or project within the ~~R~~iparian ~~C~~orridor, including but not limited to channel modification, riverbank works, or vegetation removal, such person shall obtain a prior written ~~R~~iver ~~W~~ork ~~P~~ermit from the District in accord with Rule 126 or meet the emergency ~~R~~iver ~~W~~ork ~~P~~ermit criteria of Rule 126 C, or be expressly exempt from the ~~R~~iver ~~W~~ork ~~P~~ermit requirement pursuant to Rule 126 B.

**Section Five: Amendment of Rule 21 (Applications)**

Rule 21-B through 21-E shall be revised as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~):

**B. APPLICATION FOR PERMIT TO EXPAND/EXTEND CONNECT TO OR MODIFY A CONNECTION TO A WATER DISTRIBUTION SYSTEM**

***Each application for a Water Permit shall follow the process set forth in Rule 23. A proper Applicant for a Water Permit may be the prospective User of the proposed or existing Connection as the real party in interest, the property owner, or any agent thereof. The applicant for a Water Permit to Expand/Extend Connect to or Modify a Water Use Connection a Water Distribution System shall be deemed complete when the Applicant submits all of the following:***

1. ~~A completed written application in the manner and form prescribed by the Implementation Guidelines~~ ***A Water Release Form pertaining to the Site on which the water use shall occur shall be signed by the authorized official of the applicable Jurisdiction and. It shall be the responsibility of the Jurisdiction to complete any applicable Environmental Review on a project prior to authorizing a Water Permit release via the Water Release Form.***
2. ~~For those potable system applications for which a building permit is pending, eComplete architectural drawings that reflect water use pursuant to Tables 1 or 2 of Rule 24, together with any amendment, addition, or modification of those drawings~~ ***plans*** which may be made prior to use or occupancy of the project, and any ~~drawings~~ ***plans*** which may be submitted to the municipal unit ***Jurisdiction*** for land use or building approvals, ~~and a statement of near term need for the proposed expansion/extension; and.~~
3. ~~For subpotable systems, and for exterior use for all systems, an itemized estimate of water use in the form of a A Landscape Water bBudget which includes the Maximum Applied Water Allowance (MAWA) calculation and three copies of the landscape plan for new exterior use when the Site exceeds~~

*10,000 square-feet in size, when the project is a Non-Residential use, or when the project involves Multi-Family Dwellings or mixed uses. other alternate water demand estimate as approved by the General Manager; and.*

4. ~~Architectural drawings for each change in the project made prior to use or occupancy which may affect the project's capacity to use water~~ *A copy of the District-issued documentation of a Water Use Credit or documentation of an On-Site Water Credit when a credit is used to offset new water fixtures or uses; and.*
5. *A copy of a District inspection report for the property, if required to process the Permit.*
6. *Payment of* ~~The applicable fees prescribed in Rule 60; and.~~
7. *Payment of* ~~The Connection Charge prescribed in Rule 24.~~

**C. APPLICATION FOR AMENDMENT TO A WATER DISTRIBUTION SYSTEM PERMIT**

The ~~a~~Applicant shall submit the following:

1. A completed written application in the manner and form prescribed by the General Manager; ~~under Rule 22 or Rule 23 as appropriate to the proposed amendment.~~ An amendment to a ~~wWater dDistribution sSystem pPermit~~ under Rule 22 E shall require the signature of the system owner. When the application involves the expansion or annexation to an existing ~~wWater dDistribution sSystem sService aArea~~ *or expansion of the Water Distribution System beyond its prior authorized System Capacity (annual production) limit or its prior authorized Expansion Capacity (Connection) limit*, the application shall be processed as an amendment of the ~~pPermit to Create/Establish a wWater dDistribution sSystem.~~ When the application involves expansion of the water distribution system beyond its prior authorized system capacity (annual production) limit or its prior authorized expansion capacity (connection) limit, the application shall be processed as an amendment of the Permit to Create/Establish a Water Distribution System.
2. The fee prescribed in Rule 60.
3. ~~The applicable Connection Charge prescribed in Rule 24, Connection Charges.~~

**D. APPLICATION FOR APPEAL**

1. ~~A complete written application in the manner and form prescribed by the General Manager.~~
2. ~~The fee prescribed in Rule 63.~~

#### **E. APPLICATION FOR VARIANCE**

1. ~~— A complete written application in the manner and form prescribed by the General Manager.~~
2. ~~— The fee prescribed in Rule 63.~~
3. ~~— Applicable fees prescribed in Rule 60.~~

#### **Section Six: Amendment of Rule 23 (Permit Process and Mandatory Conditions of Approval)**

- A. Rule 23, as published prior to the adoption of this ordinance, and as shown in strikeout below, shall be deleted in its entirety.

#### **RULE 23 — ACTION ON APPLICATION FOR PERMIT TO EXPAND OR EXTEND A WATER DISTRIBUTION SYSTEM**

##### **A. APPLICATIONS TO INTENSIFY WATER USE**

~~An expansion/extension permit shall be required from the District for each Intensified Water Use (defined by Rule 11). Intensification of Water Use without a permit shall provide cause for revocation by the District of all water use by any person on that Site. Each application for a permit to expand or extend a water distribution system and each application for an amended expansion/extension permit shall follow the process set forth in Rule 23. The District may issue the permit when the following applies:~~

1. ~~— The District shall issue an expansion/extension permit for a project when:~~
  - a. ~~— the District has first received and approved a complete application which includes evidence of each Discretionary Approval required for the proposed use, a complete and final set of Construction Plans, and (if required by the Jurisdiction) a final landscape plan, and~~
  - b. ~~— the District has first received payment in full for all applicable District fees and charges based upon the incremental increase in the potential water use capacity for that individual project.~~
  - c. ~~— the District has first received a Water Release Request from the applicable Jurisdiction (the city, county or the airport district) pertaining to the Parcel on which the water use shall occur, and~~
  - d. ~~— the total quantity of water reserved for all projects within a Jurisdiction does not exceed that Jurisdiction's total water allocation.~~
  - e. ~~— the District has not determined to temporarily delay the issuance of permits by reason of a declared Water Supply Emergency.~~

2. ~~As an alternate to the process set forth in (1) above, the District may issue an expansion/extension permit for an application without a Water Release Request because of one of the following reasons:-~~
  - a. ~~the proposed Intensified Water Use has been authorized by the District to derive some or all of its capacity for water use from the District Reserve allocation, or~~
  - b. ~~the application requests a permit to Intensify Water Use which derives from a water supply other than the Monterey Peninsula Water Resource System, or~~
  - c. ~~the application has been determined to not cause an Intensified Water Use, or causes an increase as specified pursuant to subparagraph (6) below (Rule 23 A (6)).~~
  - d. ~~the application requests a permit based on a prior Water Use Credit, which applies to that Site.~~
  - e. ~~the application requests a permit to use water for a project which shall not permanently Intensify Water Use as it requires only a short term need for water and the application shall be processed pursuant to Rule 23 B.~~
3. ~~In the absence of special circumstances or undue hardship, the District shall not issue an expansion/extension permit, which results in the installation of a new water meter, which shall serve water to more than one user. Multiple users shall apply for separate permits pursuant to this rule. This provision, however, shall not prevent the issuance of a permit, which shall allow a single user to extend incidental water use (e.g. a single bar sink).~~

~~This provision shall be construed to enable the issuance of permits for Intensified Water Use which are required by reason of a change in occupancy or use of an existing structure without a requirement to install separate water meters for each separate use or user provided no substantial structural modifications are necessary to facilitate the changed use. Any such extension shall nonetheless be processed in accord with Rule 24 (Connection Charges).~~
4. ~~The District shall not issue an expansion/extension permit if the District Board has determined that the water distribution system affected by that permit has exceeded its expansion capacity limit.~~
5. ~~The District shall not issue an expansion/extension permit when any portion of the expansion or extension lies outside of the affected water distribution system service area.~~
6. ~~The District shall not issue an expansion/extension permit until all fees and Connection Charges are paid in full by, or on behalf of, the applicant. At the time of first use or occupancy of the project, the General Manager may adjust the~~

~~charge and the water debited from the Jurisdiction's Allocation, and cause a partial refund or the imposition and collection of an additional Connection Charge in accord with the provisions of Rule 24. In the event the adjusted Connection Charge is not paid in full within a reasonable period, the water use permit shall be revoked.~~

- ~~7. The District shall not issue an expansion/extension permit which allows the use of potable water for green belt irrigation when alternate sub-potable water is reasonably available to the Site (see Rules 23 C, 131 and 132).~~
- ~~8. Staff determinations under this rule, either issuing or refusing to issue a permit, may be appealed to the Board pursuant to Rule 70.~~

#### **B. TEMPORARY EXPANSION/EXTENSION PERMITS**

~~Notwithstanding any provision of Rule 23 (A), the General Manager may issue a temporary expansion/extension permit to applicants who do not possess a valid municipal or county building permit as provided in Rule 23 (A), provided the applicant has demonstrated that the expansion is reasonably necessary to satisfy the near term water needs of the applicant. Each temporary expansion/extension permit issued by the General Manager shall be subject to the following conditions:~~

- ~~1. The temporary permit shall not confer a property interest upon the grantee to obtain or use water after expiration and/or revocation of the permit.~~
- ~~2. The temporary permit is subject to revocation during its term without cause, without hearing, upon thirty (30) days notice.~~
- ~~3. The temporary permit shall terminate on the date specified on the permit, and if no date is specified, shall terminate one (1) year after the temporary permit is issued.~~
- ~~4. Any use of water through the connection or water meter installed pursuant to the temporary permit following expiration and/or revocation of that permit shall be unauthorized.~~
- ~~5. The applicant for the temporary permit shall acknowledge in writing that the temporary permit does not confer a right to obtain or use water upon expiration and/or revocation of the temporary permit.~~
- ~~6. The applicant for the temporary permit shall consent to the physical removal of the connection and/or water meter upon the expiration and/or revocation of the temporary permit.~~
- ~~7. The terms and conditions of the temporary permit shall be recorded in the office of the Monterey County Recorder against the real property which is by the connections, and shall operate as a covenant running with the land.~~
- ~~8. The applicant shall pay any applicable fee pursuant to Rule 24 and Rule 60.~~



The General Manager may place further conditions upon the grant of the temporary permit, as he/she deems proper. Determinations of the General Manager under this Rule, either issuing, conditioning, or refusing to issue a temporary permit, may be appealed to the Board pursuant to Rule 70.

### C. CRITERIA TO PROCESS APPLICATIONS TO INTENSIFY WATER USE

The following procedure and criteria shall apply to any application for new or Intensified Water Use.

1. Water Release Request (Water From a Jurisdiction Allocation). Before a permit shall be issued by the District to allow new or Intensified Water Use (including applications for changed use through an existing water meter) the District shall first receive a Water Release Request from the Jurisdiction, which has land use planning authority over the Parcel on which that water use shall occur. The District may nonetheless receive and process applications without a Water Release Request under the criteria set forth in Rule 23 A (2)

a. use authorized from the District Reserve allocation, or (b) use from a water supply other than the Monterey Peninsula Water Resource System, or (c) no intensification of water use in an existing connection, or (d) use based on a prior water use credit for that Site, or (e) use for a temporary purpose.

2. Water from the District Reserve Allocation. The District Reserve Allocation constitutes a special allocation, which may be used to make water available to Regional Projects of special benefit to avoid the individual drawdown of a Jurisdiction's allocation, which would otherwise occur, or for drought or other reserve purposes. Release and use of this water is at the sole and exclusive discretion of the District.

Regional Projects, which may qualify for water from the Reserve Allocation, shall be non profit, provide for the health, safety and/or welfare of the community, and provide regional non-denominational benefit to residents of the greater Monterey Peninsula area. Examples of such Regional Projects include regional health care, homeless or transitional shelters, and protection from natural disasters (but not local police protection).

A project sponsor or a Jurisdiction seeking water from the District Reserve Allocation shall make a written request to the District. The District may refer that request to TAC or PAC for recommendation, or may act on the request directly. The District in its sole and exclusive discretion may deny, approve, or approve in part the request. Water use shall be debited from the District Reserve allocation in the same manner used for each Jurisdiction's Allocation.

3. Water Connection Permit. An expansion/extension permit from the District shall be required prior to any new or Intensified Water Use. To obtain that permit, a complete application shall be submitted to and approved by the

~~District. A complete application must include the record of each Discretionary Approval required for the proposed use, a complete and final set of Construction Plans, a complete landscape plan where such a plan is required by the Jurisdiction, and payment in full of all applicable District fees and charges based upon the potential water use capacity for that individual project. The term "Discretionary Approval" shall mean each land use planning and zoning approval required for the project, a use permit if one is required, and prior completion of all applicable design review or approval.~~

- ~~4. Quantity of Water Permitted for Use. Upon receipt of the complete application for the expansion/extension permit, District staff shall calculate the water use capacity for the project, verify release of water by the Jurisdiction, and based on water use capacity quantify the amount of water actually permitted. The District shall issue a permit, which allows installation of a new water meter connection, only when the projected water use capacity equals or is less than the Water Release Request. If a new connection has capacity for water use in excess of the quantity in the Water Release Request, a permit for the new water meter connection will be issued by the District only upon receipt of an amended Water Release Request from the Jurisdiction.~~
- ~~5. Residential Water Demand. Each authorization for interior water demand for residential water connections shall be based on the fixture units planned for that Site. Water use capacity for remodeling or replacement of an existing residence, or for any new residence shall be based on the increase in fixture units on the Site. A single standard shall apply to the calculation of fixture units regardless of where the property is located. This method shall not include an increment of water for open space or landscape use. Instead, landscape water demand for each residential use shall be calculated by the District independent from the fixture unit criteria. The Board of Directors shall adopt guidelines to guide staff's implementation of the landscape water use criteria and calculation process provided by this Rule.~~
- ~~6. Adjustment of Allocation Upon Issuance of Permit. Water capacity allowed by each permit shall be deducted from that Jurisdiction's Allocation. Each project, which allows new water use capacity through an existing connection due to Intensified Water Use, shall require an expansion/extension permit and also have the quantity of water allowed by permit debited from that Jurisdiction's Allocation. A permit for water use, which derives wholly from the District Reserve Allocation, however, shall be deducted from the District Reserve allocation. A pro rata split shall be made for those permits, which are based on water from both a Jurisdiction's Allocation and the District Reserve, or two or more Jurisdictions, which may participate, in a joint project.~~
- ~~7. Process. The General Manager shall review each application, and if he determines the application to be incomplete, he shall request the applicant to submit additional information. When the application is complete, the General Manager (or the Board of Directors for those applications not acted upon by the General Manager) shall:~~

- a. ~~Classify any proposed connection as "Residential, Commercial/Governmental, or Industrial" as defined in these rules. If such proposed connection cannot be adequately categorized pursuant to existing data, the General Manager or the Board of Directors by exercise of discretion may require additional information, or define such connection as either residential, commercial/governmental, or industrial based upon connection. Determination of connection categorization by the General Manager may be appealed pursuant to Rule 70.~~
- b. ~~For each application, which proposes to use potable water the General Manager or the Board of Directors shall determine whether or not, an alternate supply of water, including sub-potable water, is reasonably available to that applicant. Facts to support this decision may be derived from existing data, or from a scope of work required of the applicant. The decision regarding reasonable availability of sub-potable water shall conform to the findings set forth in Rule 131. The burden of establishing the non-availability of any alternate water supply, including sub-potable supplies, shall rest with the applicant.~~
- c. ~~Each permit may have conditions placed upon the use of water allowed by that connection in accord with Subdivision C of this rule. Conditions may be devised to minimize non-essential uses of potable water.~~
- d. ~~After each connection is categorized, the non-availability of alternate supplies has been determined, and appropriate conditions have been drafted, and when the General Manager is authorized to act on the application pursuant to Subdivision A of this rule, the General Manager shall issue the permit within thirty (30) days.~~
- e. ~~When the General Manager is not authorized to act on an application, or when the General Manager does not act within thirty (30) days, action on the application shall be referred to the Board of Directors for action in accord with this subdivision.~~

#### **D. CONDITIONS AND CONDITIONAL WATER PERMITS**

~~The Board, or the General Manager on those applications acted upon by the General Manager, may place conditions upon the grant of any expansion/extension permit. For any permit, which would allow the use of potable water for greenbelt irrigation, the following condition shall be imposed:~~

1. ~~The holder of this permit, or the holder's successor in interest, shall not use water derived from this connection to irrigate any greenbelt the Monterey Peninsula Water Management District has declared by resolution that sub-potable water as defined by the District's Rules and Regulations is reasonably available for such use.~~

2. ~~A category of water permits known, as Conditional Water Permits shall be available to a limited group of water permit applicants under restricted circumstances and only with the jurisdiction's endorsement. A Conditional Water Permit creates a record that specifically quantifies the increment of water assigned for use at the location designated by the jurisdiction and debits the jurisdiction's water allocation. Conditional Water Permits are available to those projects that are unable to meet all of the criteria of Rule 23-A-1 (a) and meet the requirements of Rule 23-D-2.~~

A. ~~The following categories of projects may obtain a Conditional Water Permit:~~

1. ~~Large Projects—Commercial projects with a projected water demand of over one acre-foot annually.~~
2. ~~Government Projects—Projects owned and operated, or financed by a governmental agency.~~
3. ~~Projects with Complex Financial Underwriting—Determined at the discretion of the Board of Directors.~~

B. ~~The Conditional Water Permit may be issued when the following criteria have been met:~~

1. ~~There is no water supply emergency;~~
2. ~~There is sufficient water supply in the jurisdiction's allocation;~~
3. ~~The governing body of a jurisdiction submits a written request that a Conditional Water Permit be issued to a project;~~
4. ~~A completed Water Release Form for the project is submitted which includes the authorizing signature of the jurisdiction to debit its water allocation;~~
5. ~~Payment of all Connection Charges and processing fees has been received by the District.~~

C. ~~A Conditional Water Permit must be finally approved by the General Manager, following review of the proposed conditions by the District's legal counsel. The notarized signature of the project applicant is required before the General Manager's signature is obtained.~~

D. ~~A Conditional Water Permit shall be numbered with the next sequential alpha and numeric number beginning with C-001, C-002, and etcetera. A final water permit bearing the final water permit number referenced in the conditional water permit shall be maintained, unsigned in the District's file. An amount of water approved for use by the jurisdiction~~

~~for the project will be debited from the jurisdiction's water allocation at the time the conditional water permit is issued.~~

- ~~E. — A Conditional Water Permit does not allow the setting of any water meter or the start of any new or expanded water use until the conditions of the permit have been met.~~
- ~~F. — A condition shall be included in all Conditional Permits, which requires the adjustment of the Connection Charge to accurately reflect the cost per acre foot at the time the final water permit is issued. Any difference in the Connection Charge between the time the Conditional Water Permit is issued and the final Water Permit is issued must be paid in full.~~
- ~~G. — Each Conditional Water Permit is time limited. The Conditional Water Permit shall expire on December 31st of the year following issuance.~~
- ~~H. — A written request for extension of the Conditional Water Permit may be requested and shall require Board authorization for extension. Requests for extension must be received no later than forty-five (45) days prior to expiration and must include an explanation for the request and the jurisdiction's agreement that the Board should grant an extension.~~

#### **E. VERIFICATION OF WATER USE CAPACITY**

~~To implement Regulation II, the General Manager or his agent acting in accord with the provisions of Section 363 of the District Law may enter on to any property for purposes consistent with this Regulation II and for the purpose of making investigations relating to water use capacity at that site. For such purposes, the authorized representative of the District, upon presentation of credentials and with permission of the occupant, or if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, shall have the right of entry to any premises to verify and inspect the water use capacity and type of water use fixtures within that structure.~~

~~If access is denied which prevents inspection of water fixtures or fixture retrofit construction required by a District permit, or if permit violations have been noted by and have not been corrected within a reasonable period, the District may record a notice of violation against that property, impose a lien against that property for additional fees and charges which may be due, and/or may revoke (or suspend) the permit for that property until such time as the violation has been corrected.~~

- B. The following text (*shown in bold italics*) shall replace Rule 23 as deleted by this ordinance:

#### **RULE 23 - ACTION ON APPLICATION FOR A WATER PERMIT TO CONNECT TO OR MODIFY AN EXISTING A WATER DISTRIBUTION SYSTEM**

## **A. PROCESS**

### **1. New and Amended Water Permit.**

- a. The General Manager shall review the application and determine whether the Applicant has met the criteria for a Water Permit. If additional information is required to complete the application, the Applicant shall be notified in writing within thirty (30) days of the initial application.**
- b. The General Manager shall determine if the District has temporarily delayed the issuance of new Water Permits pursuant to Regulation XV. If a temporary delay is in place that affects the application, no Water Permit shall be processed and the application shall be returned to the Applicant. Exceptions to this rule shall be made for permit applications for a new water meter for a fire suppression system or to individually meter uses previously metered by one water meter (i.e. meter split) unless otherwise determined by action of the Board of Directors.**
- c. The General Manager shall not process a Water Permit when any portion of the Site lies outside of the affected Water Distribution System Service Area.**
- d. The General Manager shall not process a Water Permit when there is a previously issued permit for a completed project on the application Site and a final inspection by the District has not been conducted, or where the property is not in compliance with District Rules and Regulations or conditions attached to previous District permits.**
- e. The General Manager shall calculate the appropriate Connection Charge for the project using Rule 24, Calculation of Water Use Capacity and Connection Charges.**
- f. When the application involves an Intensification of Use, the General Manager shall ensure that the total quantity of water permitted for all projects, including the current application, within a Jurisdiction shall not exceed that Jurisdiction's total Allocation. Similarly, for projects not subject to a Jurisdiction's Allocation, the General Manager shall ensure that the total quantity of water permitted for all projects, including the current application, does not exceed the production limit and/or Connection limit of the Water Distribution System serving the project Site.**
- g. When the Adjusted Water Use Capacity as determined in Rule 24 is a positive number, that amount of water shall be deducted from the Jurisdiction's Allocation or Water Entitlement as authorized on the Water Release Form. If additional water is required to meet the Adjusted Water Use Capacity of the project and the Applicant is unable to reduce the Adjusted Water Use Capacity, the application shall be denied and returned to the Applicant to secure additional water resources.**

- h. Intensification of Use allowed by a Water Permit shall result in a deduction from a Jurisdiction's Allocation (for projects served by the Main California American Water System), from a Water Entitlement available to the property, or from the total available production limit for that Water Distribution System. Each project which allows new, modified, or Intensified Water Use, shall require a Water Permit.*
- i. The General Manager shall not issue a Water Permit which results in the installation of a new water meter that serves water to more than one User. Multiple users shall apply for separate Water Permits pursuant to this rule. This provision, however, shall not prevent the issuance of a Water Permit which allows a single User to extend incidental water use (e.g. to a single Bar Sink). This provision shall be construed to enable the issuance of a Water Permit required by reason of a change in occupancy or use of an Existing Non-Residential Structure without a requirement to install separate water meters for each separate use or User, provided no substantial structural modifications are necessary to facilitate the changed use. Any such application shall nonetheless be processed in accord with Rule 24 (Calculation of Water Use Capacity and Connection Charges).*
- j. When the application involves recordation of notices on the title of the property, all notices shall be recorded by the District prior to final issuance of a Water Permit. Additional information (e.g. trust documents, Articles of Incorporation) may be requested to verify ownership and to facilitate preparation of District notices.*
- k. The General Manager shall collect payment of the appropriate Connection Charge and processing fees and shall issue a receipt prior to final issuance of a Water Permit.*
- l. When the application requests a permit to install a new water meter for a fire suppression system, to extend a water main within the boundaries of the Water Distribution System, or to individually meter uses previously metered by one water meter (i.e. meter split), there shall be no processing fee.*
- m. The General Manager shall mark the Construction Plans with the District's Water Permit Approval Stamp and shall sign the stamp and include the Water Permit number and date issued.*
- n. The General Manager shall review the final Water Permit with the Applicant or his agent prior to requesting a signature on the Water Permit and releasing the permit and Construction Plans.*
- o. Following project completion, a final inspection of the project shall be conducted by the District. If the completed project varies from the permitted project, application for an amended Water Permit is required.*
- p. Notice by the District to correct any discrepancy shall be provided on the inspection report to the person contacted at the Site and by regular mail to the*

*owner of record. Notice of violations that may result in a debit to a Jurisdiction's Allocation shall also be mailed, faxed or emailed to the Jurisdiction. Such notice shall include a date by which any corrections and amendments shall be made. Thereafter, the General Manager may adjust the charge and debit the water from a Jurisdiction's Allocation or cause a refund of Connection Charges paid and water previously debited from an Allocation to reflect the project as built rather than the project as permitted.*

**2. Temporary Water Permits.**

- a. The General Manager may issue a Water Permit for temporary water use when the Applicant has submitted a written request for a temporary water Permit, including an explanation of the type of use and quantity of water requested and a signed Water Release Form from the Jurisdiction.*
- b. The Applicant for a Temporary Water Permit shall acknowledge in writing that the Temporary Water Permit does not confer a property interest to obtain or use water after expiration and/or revocation of the permit. The terms and conditions of the Temporary Water Permit shall be recorded on the title of the property for the duration of the Temporary Water Permit.*
- c. The term of a Temporary Water Permit shall not exceed twenty-four (24) months.*
- d. The General Manager shall process a Temporary Water Permit pursuant to the process in Rule 23-A-1.*
- e. Following removal of the temporary use and verification by the District, water temporarily debited from the Jurisdiction's Allocation will be returned to the Jurisdiction and the Connection Charge paid for the temporary use will be refunded to the current property owner.*
- f. A Notice of Removal of Deed Restriction shall be recorded by the District at the conclusion of the Temporary Water Permit process.*

**3. Conditional Water Permits**

*A category of Water Permits known as Conditional Water Permits shall be available to a limited group of Applicants under restricted circumstances and only with the Jurisdiction's endorsement. A Conditional Water Permit creates a record that specifically quantifies the increment of water assigned for use at the location designated by the Jurisdiction and debits the Jurisdiction's Allocation. Conditional Water Permits are available to those projects that are unable to meet all of the criteria of Rule 23-A-1 and meet the standards of this Rule.*

- a. The following categories of projects may obtain a Conditional Water Permit:*



- (1) *Large Projects - Commercial projects with a projected water demand of over one Acre-Foot annually.*
  - (2) *Government Projects - Projects owned and operated or financed by a governmental agency.*
  - (3) *Projects with Complex Financial Underwriting - Determined at the discretion of the Board of Directors.*
- b. *The Conditional Water Permit may be issued when the following criteria have been met:*
- (1) *There is no Water Supply Emergency;*
  - (2) *There is sufficient water supply in the Jurisdiction's Allocation;*
  - (3) *The governing body of a Jurisdiction submits a written request that a Conditional Water Permit be issued to a project;*
  - (4) *A completed Water Release Form for the project is submitted which includes the authorizing signature of the Jurisdiction to debit its Allocation;*
  - (5) *Payment of all Connection Charges and fees has been received by the District.*
- c. *A Conditional Water Permit shall be numbered with the next sequential alpha and numeric number beginning with C-001, C-002, etc. A Water Permit bearing the permit number referenced in the Conditional Water Permit shall be maintained unsigned in the District's file.*
- d. *The Applicant's notarized signature is required on the Conditional Water Permit form before the General Manager's approval.*
- e. *A Conditional Water Permit shall be valid after the General Manager has signed the permit.*
- f. *An amount of water approved for use by the Jurisdiction for the project will be debited from the Jurisdiction's Allocation at the time the Conditional Water Permit is issued.*
- g. *A Conditional Water Permit does not allow the setting of any water meter or the start of any new or expanded water use until the conditions of the permit have been met and a Water Permit has been issued pursuant to Rules 21 and 23.*

- h. Each Conditional Water Permit is time limited. The Conditional Water Permit shall expire on December 31st of the year following issuance.*
- i. A written request for extension of the Conditional Water Permit may be requested and shall require Board authorization for extension. Requests for extension must be received no earlier than ninety (90) days and no later than forty-five (45) days prior to expiration and must include an explanation for the request and the Jurisdiction's agreement that the Board should grant an extension.*

**B. MANDATORY CONDITIONS OF APPROVAL.**

- 1. Construction Affecting the Interior or Exterior of an Existing Structure. All construction within or to an Existing Structure shall be subject to the following conditions:*
  - a. The project Site must meet all applicable water conservation requirements of Regulations XIV and XV.*
  - b. Other conditions may be placed upon approval as indicated in the applicable rule governing the Water Permit process.*
  - c. The Applicant shall arrange for a final inspection by the District upon project completion. District staff shall review the project, water fixtures, and Landscaping for compliance with the Water Permit.*
  - d. Permit amendments or other actions required as a result of a final inspection shall be completed within thirty (30) days of the date of the final inspection.*
- 2. Construction of a New Structure. In addition to the Mandatory Conditions of Approval for Construction Affecting the Interior or Exterior of an Existing Structure, all new water use permitted by the District shall install a separate water meter to each User.*
- 3. Construction in the Sleepy Hollow Subdivision of Carmel Valley.*
  - a. All exterior water use shall be supplied by the Sleepy Hollow Sub-Potable Water system or by an On-Site Well.*
  - b. Interior water use shall be supplied by California-American Water Company by a Master Meter at the subdivision boundary.*
  - c. Both interior and exterior uses shall be metered by individual water meters.*

**C. ADJUSTMENT OF ALLOCATION FOR UNUSED WATER CAPACITY.**

*Any permitted water capacity which is not used because of an abandoned, expired, revoked, returned, or amended Water Permit shall be returned to the applicable Allocation or Water Entitlement.*

**Section Seven: Amendment of Rule 24, Water Permit Process**

- A. Rule 24, as published prior to the adoption of this ordinance, and as shown in strikeout below, shall be deleted in its entirety.

**RULE 24 - WATER PERMIT PROCESS**

~~The following water permit process shall apply to the expansion, extension, and/or increased utilization of water from or through any connection or water measuring device in a potable water distribution system within the District.~~

**A. PROCESS**

~~Each individual, prior to increasing the use of water from a potable water distribution system within the District, and before adding a connection or changing the character of use of an existing connection to a potable water distribution system within the District, shall obtain a permit from the Monterey Peninsula Water Management District.~~

~~Each applicant for a permit to expand or extend water distribution system, shall, prior to issuance of such a permit, deposit with the District all connection and water supply improvement charges calculated pursuant to this rule in addition to the fees prescribed by Rule 60. Such charges shall apply to each applicant seeking to relocate or change the size of a connection or a water measuring device, applicants seeking to intensify the use of water from an existing connection, and/or applicants for an amended permit.~~

~~The addition of any fixture unit by a user shall be deemed an intensification of use requiring an expansion/extension permit, or an amended permit pursuant to these Rules and Regulations. Any change in use from one commercial category in one group to another commercial category in a higher water use group, or from any category in Group III to another category in Group III, as shown on Table No. 2 of this Rule, shall be deemed an intensification of use requiring an expansion/extension permit, or an amended permit pursuant to these Rules and Regulations. Where there is no increase in the size of a structure, a change in use from one commercial category in Group I to another category within Group I, or a change of use from one commercial category in Group II to another in Group II, however, shall not be deemed to cause an intensification of water use.~~

**B. APPLICATIONS, WHICH AFFECT EXISTING CONDITIONS OR WHICH RELATE TO AN INTENSIFICATION OF USE**

**1. All Applications**

~~Projects, which will relocate, enlarge, resize, or alter the type or quantity of use from an existing permanent connection, including projects, which will add to or remodel existing structures, shall pay the connection fee required by this rule. For such projects, the General Manager shall first determine the Connection Charge calculation in this rule. Thereafter, the General Manager may reduce the Connection Charge with respect to applications for an amended permit, which seeks only to relocate, increase, or alter the type or quantity of use from an existing permanent connection. The Connection Charge for intensification of use from an existing connection shall exact a charge only as it relates to the extra increment of water, which will be available to and subject to use by the applicant as the function of the relocated, increased, or altered use from the connection. With respect to both new and amended expansion/extension permits, a project's capacity to use water shall be reviewed at the time the project is first available for use or occupancy. At this review, the General Manager shall adjust the Connection Charge to ensure that final Connection Charge bears a positive correlation to the water use capacity of the project as built, rather than the project as planned. Adjustment of the Connection Charge may require collection of additional charges based upon water use capacity reflected by Table 1 or 2, and shall also include fees required by Rule 60. In the event the adjusted Connection Charge is not paid, the water use permit shall be revoked.~~

~~A change of use following the project's first use or occupancy which results in a less intensive utilization of water shall not entitle the user to any refund of Connection Charges which have previously been paid, except where an adjustment is permitted under paragraph G, and where such adjustment was approved at the time the original permit was granted.~~

~~A change of use following the project's first use or occupancy which results in an Intensified Water Use shall require a permit pursuant to Rule 23, cause a debit to the appropriate Allocation, and require the Person who owns the Site to pay all applicable fees and Connection Charges. In the event the adjusted Connection Charge is not paid following reasonable demand by the District, the water use permit shall be revoked.~~

**2. Governmental Open Space**

~~As a sole exception to the transfer or relocation of water use credits, the General Manager, upon written request, shall enable a government agency (i.e. Municipal, County, State, or Federal public agency) to transfer water use from one location owned and operated by that agency to another location owned and operated by that agency provided use of water transferred to the new location shall be entirely dedicated to open space use.~~

~~This exception shall apply as follows:~~

- ~~a. — transfers between different government agencies shall not be allowed; and~~
- ~~b. — transfers from or to lands owned or operated by private (non-public) agencies shall not be allowed; and~~
- ~~c. — transfers for other than open space use shall not be allowed; and~~
- ~~d. — transfers which enable greater water use shall be assessed Connection Charges for all capacity for water use in excess of the transferred water credit; and~~
- ~~e. — any right or entitlement to water use at the original (pre-transfer) location shall be terminated and shall extinguish to the extent of the water use credit transferred.~~

### **C. RESIDENTIAL EXPANSIONS**

#### **1. — Determination of Fixture Unit Component for Each Dwelling Unit**

- ~~a. — Each expansion/extension permit application for residential use will be assessed a Connection Charge and water shall be debited from the applicable jurisdiction's water allocation for each added fixture unit in accord with Table 1 below. This table shall be revised periodically and approved by ordinance. The applicant shall provide complete and final construction plans to the District for evaluation of the fixture unit component of any new construction, remodel or addition that involves water fixtures. The General Manager or his/her designee shall review the project and determine the fixture units count to be used in the formula set forth in this rule. Fixtures which deviate from those categories listed on Table No. 1 shall be characterized by the General Manager as "other", and assigned a fixture unit value which has a positive correlation to the anticipated water use facilitated by that fixture.~~
- ~~b. — Portable water fixtures fountains, ponds, hot tub/spas, drinking fountains, pot fillers, darkroom sinks, outdoor showers, outdoor sinks, pet/livestock wash racks and water troughs, and multiple utility sinks (more than one per site) shall be exempt from the Connection Charge and shall have no fixture unit value. The General Manager may waive the limitations set by this paragraph upon credible evidence that the fixtures had been legally installed. The General Manager's determination shall be subject to appeal pursuant to Rule 70.~~

c. ~~Special Fixture Unit Accounting.~~

1. ~~Special fixture unit accounting shall apply to any expansion application that proposes to add a second bathroom to an existing Single Family Dwelling Unit on a Single Family Residential Site that, prior to the application, has only one bathroom.~~
2. ~~This accounting protocol shall be limited, and shall apply only to the following water appliances if these are installed in a new second bathroom as an expansion of an existing Single Family Dwelling Unit: (a) a single water closet, and (b) a single standard tub, or single shower stall, or a single standard tub-shower combination, and (c) one or two wash basins. This special fixture unit accounting shall further apply on a pro rata basis to any expansion application that proposes to add one or more of the referenced water appliances to an existing second bathroom that lacks that same appliance within an existing Single Family Residential Site that, prior to the application, has less than two full bathrooms.~~
3. ~~The special fixture unit accounting referenced above shall not apply to any Multi Family Dwelling or Multi Family Residential Site.~~
4. ~~This special fixture unit accounting shall apply only to a Single Family Dwelling Unit on a Single Family Residential Site that had a final building permit as of May 16, 2001.~~
5. ~~A valid Water Use Credit for the permanent abandonment of a one bathroom Single Family Dwelling Unit on a Single Family Residential Site issued prior to May 16, 2001 shall be regarded as an existing Dwelling Unit and shall allow the reconstruction of Single Family Dwelling Unit with the addition of the water fixtures allowed by this provision.~~
6. ~~Water fixtures installed pursuant to this provision must be installed within the existing Dwelling Unit.~~
7. ~~Under this second bathroom Special Fixture Unit Accounting protocol, the General Manager shall not debit the municipal allocation for the installation of select water fixtures in the second bathroom addition or remodel.~~
8. ~~Connection Charges shall nonetheless be collected for the addition of these fixture units to the second bathroom addition.~~

9. ~~No on-site, off-site or transfer of credit shall be granted for removal or retrofit of any fixture added pursuant to this second bathroom accounting protocol.~~
  10. ~~Use of the special fixture unit accounting protocol is voluntary. Any property installing a second bathroom pursuant to this provision shall be limited to two bathrooms unless the second bathroom is permitted by debit to a jurisdiction's water allocation.~~
  11. ~~The provisions of this special fixture unit accounting protocol shall take precedence and supersede any contrary provision of the Water Management District Rules and Regulations.~~
- d. ~~The District shall grant a Water Use Credit for the permanent removal of water using fixtures providing that the fixture was properly and lawfully installed. Credit for fixtures listed in Rule 24 C. 1. b. shall only receive credit upon evidence of a water permit showing a debit to a jurisdiction's allocation and payment of related Connection Charges. However, the District shall not provide a water use credit of greater than four (4) fixture units for the complete removal of any shower or bathtub.~~
- e. Master Bathroom Fixture Unit Accounting.
1. ~~All fixtures utilizing a Master Bathroom fixture unit value as shown in Table 1. Residential Fixture Unit Count must occur in the same bathroom, and that bathroom shall be designated as the "Master Bathroom." Each dwelling unit shall have no more than one Master Bathroom.~~
  2. ~~The Master Bathroom fixture unit value shall not apply to applications proposing to utilize the Special Fixture Unit Accounting allowed by Rule 24 C 1. c. The sole exception shall be those applications that proposed the Master Bathroom fixture unit value in the second bathroom and where fees were paid for a planning or building permit application for that project before October 23, 2003. Permits issued under this provision shall require installation of low water use plumbing fixtures to the maximum extent practical to offset one additional fixture unit. This exception shall expire on December 31, 2004.~~

2. Table No. 1: Fixture Unit Count

**TABLE I: RESIDENTIAL FIXTURE UNIT COUNT**

<b>WATER FIXTURE DESCRIPTION</b>	<b>FIXTURE UNIT VALUE</b>
Wash basin (lavatory sink), each	1
Two washbasins in the Master Bathroom	1
Toilet, ultra low flow (1.6 gallons per flush)	1.7
Toilet, ultra low flow (1.0 gallons per flush)	1.3
Toilet, ultra low flow (0.5 gallons per flush)	1
Urinal (1.0 gallon per flush)	1
Urinal (0.5 gallon per flush)	0.5
Waterless Urinal	0
Master bathroom only (one per site): Bathtub & separate shower	3
Large bathtub (may have showerhead above)	3
Standard bathtub (may have showerhead above)	2
Shower, separate stall	2
Shower, each additional fixture (including additional showerheads, rain bars, body spray nozzles, etc.)	2
Shower system or custom shower	Varies according to specifications
Kitchen sink (including optional adjacent dishwasher)	2
Kitchen sink with adjacent ultra low consumption dishwasher	1.5
Dishwasher, each additional (including optional adjacent sink)	2
Dishwasher, ultra low consumption, each additional (including optional adjacent sink)	1.5
Laundry sink/utility sink (debit/Connection Charge applies to laundry/utility sink per residential site)	2
Washing machine	2
Washing machine, ultra low consumption (<18 gallons maximum per cycle)	1
Washing machine, ultra low consumption (18-28 gallons maximum per cycle)	1.5
Bidet	2
Bar sink	1
Entertainment sink	1
Vegetable sink	1
Swimming pool (each 100 square feet of pool surface area)	1
Outdoor water uses (new connection only) (Lot size of 10,000 square feet or less)	50% total interior fixture units
Outdoor water uses (new connection only) (Lot size exceeding 10,000 square feet)	50% total interior fixture units, plus additional
	fixture unit values based on water budget.



3. Calculation of Unfactored Residential Connection Charge

An unfactored Connection Charge shall be calculated for each residential dwelling unit from the expansion/extension permit by multiplying the General Manager's fixture unit count as determined pursuant to Subdivision B of this rule by the water supply cost component determined pursuant to Subdivision 6 of this rule, as follows:

For all residential fixture units per dwelling unit:

$$\frac{\text{\# of dwelling units} \times \text{\# of fixture unit count} \times \text{water supply cost}}{100} = \text{unfactored connection charge}$$

A retrofit credit shall thereafter be applied to the unfactored Connection Charge equivalent to the Connection Charge for 2.3 fixture units for each toilet that is retrofit at the time the project is permitted.

Notwithstanding the foregoing calculation, for each system, there shall be a minimum Connection Charge in the amount of \$250 per residential connection, and a minimum non-refundable Connection Charge in the amount of \$600 upon each application for a temporary expansion/extension permit. Any application for an expansion/extension permit which is made by the holder of a current (unexpired and non-revoked) temporary expansion permit shall be credited with the Connection Charge previously paid for the temporary permit. Applicants for an amended permit shall not be subject to a minimum Connection Charge.

**D. COMMERCIAL, GOVERNMENTAL AND INDUSTRIAL EXPANSIONS**

1. Determination of Projected Water Consumption by Category of Use

Each expansion/extension permit applicant seeking a commercial, governmental, or industrial use shall provide the District building plans, site plans, and general use information in the form and manner requested by the General Manager. The General Manager shall review this information and determine, based upon Table No. 2 set forth below, the projected water use for the expansion/extension permit.

2. Table No. 2: Projected Water Use

**TABLE II - COMMERCIAL WATER USE FACTORS**

**Group I - Low to Moderate Use: (0 - 0.0001 af/yr) 0.00007 AF/SF**

Auto Uses  
Church  
Family Grocery

General Retail  
General Medical Office  
General Office/Bank  
Gym  
Warehouse

**Group II - High Use: (0.00011 - 0.0004 af/yr) 0.0002 AF/SF**

Bakery/Pizza/Deli/Sandwich Shop  
Dental/Medical/Veterinary Clinics  
Dry Cleaner  
Fast Photo  
Supermarket/Convenience Store

**Group III - Miscellaneous Uses - Each Category is Calculated Separately**

Beauty Shop	0.0567 af/station
Child Care	0.0072 af/child
Dorm	0.04 af/room
Gas Station	0.0913 af/pump
Laundromat	0.2 af/machine
Luxury Hotels/Living Units:	0.21 af/room
Meeting Hall	0.00053 af/sf
Motel/Hotel/Bed and Breakfast:	0.1 af/room
Open Space - Turf:	2.1 af/acre
Non turf:	1.8 af/acre (Reduce 50% for drip)
Plant Nursery	0.00009 af/sf total land
Restaurant (General/Bar):	0.02 af/seat
Restaurant (24 Hour & Fast Food):	0.038 af/seat
Self Storage	0.00001 af/sf
Spa	0.05 af/spa
Swimming Pool	0.02 af/100 sf surface area
Theater	0.0012 af/seat

Note: Any commercial, governmental, or industrial water use which cannot be characterized by one of the use categories set forth in Table No. 2 shall be designated as "other" and assigned a factor which has a positive correlation to the anticipated water use capacity for that site. Where substantial uncertainty exists regarding the water use factor for any "other" use, the calculation shall be made in accord with Section G- (Special Circumstances) of this Rule 24.

**3. Calculation of Unfactored Commercial, Governmental, Industrial and Open Space Connection Charges by Category of Use**

An unfactored Connection Charge shall be calculated for each commercial, governmental, industrial and open space expansion/extension permit, including amended permits required by changed use of existing connections, by multiplying the General Manager's projected water use for the project as follows:

projected water use for \_\_\_\_\_ x \_\_\_\_\_ water supply cost \_\_\_\_\_ = unfactored

Each commercial, governmental, industrial, or open space project which proposes two or more of the uses set forth in Table No. 2 above shall be subject to a use calculation for each proposed use. By way of example, a motel/restaurant would be subject to both the motel use by unit, and the restaurant use by seat calculation, similarly, a restaurant/bar would be subject to both the restaurant use by seat, and the bar use by seat. Where a proposed use may be designated as more than one category, the category, which most accurately depicts projected water use, shall be selected. Where doubt exists, the higher intensity use category shall be chosen.

Notwithstanding any other provision of this subdivision, water use upon open space in conjunction with any other use shall not result in a dual calculation for Connection Charge purposes unless special circumstances exist as set forth in Subdivision 7 below.

Notwithstanding the foregoing calculation, for each system, there shall be a minimum Connection Charge in the amount of \$500 per commercial, industrial, governmental, or open space connection, and a minimum non-refundable Connection Charge in the amount of \$600 upon each application for a temporary expansion/extension permit. Any application for an expansion/extension permit which is made by the holder of a current (unexpired and non-revoked) temporary expansion permit shall be credited with the Connection Charge previously paid for the temporary permit. Applicants for an amended permit shall not be subject to a minimum Connection Charge.

#### **E. WATER SUPPLY COST COMPONENT**

The water supply cost component used as a monetary multiplier in each Connection Charge calculation required by this rule shall be \$10,623.20. This water supply cost component shall be adjusted on July 1st of each year beginning July, 1985 to include the annual increase or decrease of the April Consumer Price Index (CPI), all items, for San Francisco/Oakland, as promulgated by the U.S. Department of Labor Bureau of Statistics. The adjusted multiplier shall apply to each extension/expansion application received on or after July 1st of each year.

#### **F. CALCULATION OF FINAL RESIDENTIAL, COMMERCIAL, GOVERNMENTAL, INDUSTRIAL AND OPEN SPACE CONNECTION**

C H A R G E S

The unfactored Connection Charge total, together with surcharges as applicable, determined pursuant to this Rule, shall be applied to each application to expand/extend a water distribution system as follows:

#### **California-American Water Company**

- a. ——— total unfactored Connection Charge x 100% = final Connection Charge
- b. ——— final Connection Charge x 01.85% = connection surcharge

Seaside Municipal Water District and Water West Corporation

—————total unfactored Connection Charge x 100% = final Connection Charge

All other potable Water Distribution Systems

—————total unfactored Connection Charge x 18.67% = final Connection Charge

**G. ADJUSTMENT OF CALCULATIONS WHERE SPECIAL CIRCUMSTANCES EXIST**

After making the Connection Charge calculation detailed above in this rule, the General Manager may reduce (or increase) the Connection Charge with respect to the fixture unit count component or the projected water use component of any extension/expansion application where special circumstances exist with respect to the anticipated water consumption resulting from that permit. Special circumstances shall be deemed to exist in each single family dwelling unit project, which proposes to irrigate more than two acres, and for each other project, which proposes to irrigate more than five acres. Special circumstances shall also be deemed to exist where a dual system provides sub-potable water for outdoor use. The General Manager may make a proportional reduction in the Connection Charge and/or the water supply improvement charge calculation for connections to any system which uses a dual delivery of subpotable water for non-consumptive purposes, and shall factor the charge based upon the portion of potable water which otherwise would have been used in the absence of the dual system. Special circumstances shall be deemed to exist with respect to each expansion/extension permit or amended permit, which proposes to utilize water in conjunction with a manufacturing process. Special circumstances shall also be deemed to exist with respect to each expansion/extension permit or amended permit for a municipality, county, or other local government agency.

The Connection Charge adjustment shall operate to exact a Connection Charge as it relates to the increment of water, which is projected to actually be available to and subject to use by the applicant as a function of the connection, or the use of water. The General Manager shall make this adjustment based upon projected use figures, which are clearly more accurate and reliable (based upon historical use or other hard documentation) than the regional average methodology used to substantiate the fixture unit or projected use category methods. Calculation of any charge shall be made by use of regional averages should any reasonable question arise with respect to the projected use figures for a particular expansion/extension permit or amended permit. Determinations of the General Manager pursuant to this subdivision may be appealed to the Board.

For those special circumstances where substantial uncertainty exists regarding the projected water use proposed by the permit applicant, the connection may be approved and installed upon payment of an estimated Connection Charge, and the actual final Connection Charge be adjusted upon the actual water use record for that connection for a reasonable time period. Adjustment of Connection Charges for non-governmental

connections shall occur only where the Board of Directors finds (a) that special circumstances exist in accord with this paragraph, and (b) that substantial uncertainty exists regarding the projected water use proposed by the permit applicant. For such applications, the Board may approve the permit subject to the following conditions:

1. — The applicant shall deposit with the District the full fee estimated to be due by reason of the projected water use.
2. — The applicant shall make available to the General Manager, upon request, any information pertaining to the actual water use or water use practices, and information pertaining to the special circumstances, which justify application of the extraordinary fee calculation.
3. — The applicant shall agree to tender the final connection fee calculated pursuant to this paragraph, and shall agree that such charge shall constitute a lien against the real property upon which the water connection is located.
4. — Failure to tender the final connection fee upon written demand shall result in the automatic revocation of the connection permit.
5. — The applicant shall authorize, in writing, the water distribution system to remove any water meter installed pursuant to this permit, upon revocation of the permit.
6. — The conditions of this permit shall be recorded as a restriction upon the deed for the real property upon which the water connection is located. Such restriction shall be removed only upon payment of the final connection fee.
7. — The Board shall set a time certain for the determination of actual water use, and the calculation of the final connection fee.

In all applications where substantial evidence does not support the finding that uncertainty exists regarding the projected water use, it shall be presumed that the regional water consumption figures as shown on Tables 1 or 2 apply to the permit.

Notwithstanding any other provisions of this section, the General Manager shall be granted authority to factor municipal, county, and other local government Connection Charges upon the actual water use record for a reasonable time period without the necessity of a hearing before the Board of Directors or other Board action. Determinations of the General Manager may nonetheless be appealed by the governmental entity to the Board of Directors.

The phrase "special circumstance where substantial uncertainty exists" (Rule 24 G) shall refer to projects that are so unusual that neither the application of the regional average nor use of actual undisputed quantitative documentation would provide a reliable forecast of the project's consumption capacity. Such a project must be unique or have such an unusual location, design or clientele that none of the surveyed commercial categories enumerated in Rule 24 represents a comparable type of use, and/or there is no quantitative documentation that is available and beyond dispute. The

exception allowed by Rule 24-G shall not apply where expanded water use through a single meter may benefit more than one user of that meter.

## **H. CONNECTION CHARGE REFUNDS**

The Connection Charge paid by an applicant for an expansion/extension permit under these Rules and Regulations shall be a fee retained by the District in its General Fund in consideration of, and as reimbursement for, the District's costs for administration of the expansion/extension application, and for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District. Following the completion of that hearing, the Board may resolve either (1) to continue to enforce this rule, or the Board may, in its sole discretion, (2) provide for a refund of the unused portion of the water supply improvement charge paid by each applicant together with interest as may be determined by the Board. The total amount of District monies subject to refund shall exclude all expenses and costs of the District in planning for, acquiring, reserving and maintaining capacity, and in administering the water supply improvement charge program. The amount of refund, if any, shall be determined by the Board at the time these rules are amended. All refunds shall be determined strictly upon a pro rata basis, with the sole variables being (1) the initial water supply improvement charge paid by any one applicant, and (2) the total amount of water supply improvement charge monies to be refunded as determined by the Board. No provision of these Rules and Regulations shall confer a right upon any applicant to receive a refund as provided in this part. Any refund which may be authorized by exercise of the Board's discretion pursuant to this subdivision shall be made to the then-current titleholder of the real property upon which the water connection is located.

Notwithstanding any other provision of this Rule, if a project, as built, eliminates all or a portion of the water demand capacity upon which the water permit was originally calculated, a refund of that portion of the Connection Charge may occur. Refunds of Connection Charges may also occur if the project is abandoned prior to construction. Refunds will only occur if a reduction in the capacity for future projected water demand is documented, or for abandoned projects, if the applicant has permanently removed the water meter and canceled the building permit. An administrative processing fee of one hundred dollars (\$100) per permit will be assessed to process each refund application. Original permit processing fees are not refundable. Requests for refunds shall be in writing, must include the water permit number, and state clearly the reason a refund has been requested.

Refunds requested for Connection Charges paid to obtain a Conditional Water Permit shall be processed under the following time lines and shall be subject to the administrative processing fee of one hundred dollars (\$100) per permit to process a refund application: refunds of less than fifty thousand dollars (\$50,000) shall be processed within thirty (30) days; refunds between fifty thousand dollars (\$50,000) and one hundred thousand dollars (\$100,000) shall be processed within forty five (45) days; and refunds over one hundred thousand dollars (\$100,000) shall be processed within sixty (60) days.

## **H. APPLICATIONS WHICH AFFECT EXPANSIONS/EXTENSIONS WHICH ARE IN PROGRESS**

*Rule deleted by Ordinance No. 26 (9/8/86)*

## **I. CONNECTION CHARGE HEARING**

Upon request of an applicant, together with the payment of any applicable fee, or upon referral of the General Manager, the Board shall conduct a hearing to determine the Connection Charge due under this rule. The Board hearing shall be conducted as a variance pursuant to Rule 90 of the District's Rules and Regulations. Following this hearing, the Board may calculate the Connection Charge to reasonably relate the particular application to the burden upon the water distribution system, or the burden upon District sources of supply which may be caused by the projected potential increase in consumption as a result of the new connection; the improvement value selected must be warranted by the circumstances and tend not to defeat the purpose of these Rules and Regulations. The Board may take notice of prior Connection Charges paid pursuant to the District's Rules and Regulations by the applicant or his predecessor in interest with regard to the parcel or parcels on which the expansion or extension will occur.

## **J. CONNECTION CHARGE FUND ACCOUNTING**

The District shall maintain separate accounts in its general fund for portions of the Connection Charges received by operation of this ordinance. Those separate fund accounts shall be maintained, designated Connection Charge accounts "A" and "B". Account "A" shall receive 18.67% of all connection fees collected pursuant to this ordinance. Account "B" shall receive 81.33% of all connection fees collected pursuant to this rule. The proceeds of any connection surcharge shall be transferred to the District's general fund, without restriction.

Connection Charge funds shall be expended from Connection Charge accounts "A" and "B" for the sole purpose of planning for, acquiring and/or reserving augmented water supply capacity for District water distribution facilities. It is recognized that such purposes include engineering, hydrologic, geologic, fishery, appraisal, financial, and property acquisition endeavors. Connection Charge funds may further be used to acquire, maintain, and/or reserve capacity in existing water distribution facilities existing within the District.

## **K. SAVINGS EFFECT**

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 or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, it being the District's express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses or phrases be declared invalid or unenforceable. Should the charges imposed by this Ordinance be deemed a tax by a court of competent jurisdiction, it is the District's express intent that such be a general

tax for deposit in the District's general fund without limitation, irrespective of any other provision of this ordinance.

#### **L. REVOCATION OF RULE 24**

*Rule deleted by Ordinance No. 26 (9/8/86)*

#### **M. PERMIT FEE PAYMENT PLANS**

1. ~~Except as may be required by operation of law, or as approved by the Board of Directors pursuant to Rule 24 N-2 below, the District shall not authorize a payment plan for fees and charges due for the issuance of a water permit. This shall mean that no permit shall be issued by the District unless all required fees and charges have first been paid in full to the District. In any circumstance where a permit has been issued on less than full payment of all fees and charges due from that parcel, that permit shall immediately be suspended and thereafter revoked in accord with Rule 27. Revocation of a water use permit shall cause removal or limitation of water service to that connection.~~
2. ~~Notwithstanding any provision of Rule 24 N-1, the Board of Directors may authorize delayed payment for projects which are solely undertaken by California non-profit public benefit corporations provided each such plan shall ensure, by recorded deed restriction which includes the consent of each property owner, that all fees and charges due for the issuance of a water permit, together with deferred interest at the rate to be set by the Board, shall be paid in full in the event project ownership or occupancy is transferred to any entity other than a California non-profit public benefit corporation. This provision is intended for use only in the presence of a substantial financial hardship to the project proponent such that the development of the project would be jeopardized by the present assessment of the full fees and charges due for the issuance of a water permit.~~

B. The following text (*shown in bold italics*) shall replace Rule 24 as deleted by this ordinance:

#### **RULE 24 - CALCULATION OF WATER USE CAPACITY AND CONNECTION CHARGES**

##### **A. RESIDENTIAL CALCULATION OF WATER USE CAPACITY**

*Residential Water Use Capacity shall be calculated using a fixture unit methodology whereby each water fixture is assigned a fixture unit value that corresponds to its approximate annual Water Use Capacity. Residential applications shall be reviewed to determine if there is an increase in fixture units as a result of the proposed project.*

1. *Methodology for Determining Water Use Capacity. The following process shall be used to determine if there is an increase in Water Use Capacity:*



- a. *The General Manager shall estimate Water Use Capacity of the proposed project using the fixture unit values and outdoor water uses calculation from Table 1: Residential Fixture Unit Count Values.*
- b. *If the application includes a Residential water fixture that is not specifically exempt from the Residential permit requirements, and no factor is shown on Table 1: Residential Fixture Unit Count Values, for a proposed water fixture, the General Manager shall research the projected annual consumption of the fixture and shall recommend a fixture unit count value to the Board that corresponds to the Estimated Annual Water Use Capacity of the fixture. Table 1 shall subsequently be amended by Resolution of the Board of Directors to assign a value to the new fixture.*
- c. *Using Table 1: Residential Fixture Unit Count Values, the General Manager shall compare the pre-project fixture unit count against the fixture unit count shown on the Construction Plans submitted with the Water Release Form and Water Permit application. Pre-project Estimated Annual Water Use Capacity shall be verified by inspection.*
- d. *The General Manager shall reduce the Estimated Annual Water Use Capacity by any verified Water Use Credit or On-Site Water Credit applicable to the application as shown on the Water Release Form and Water Permit application and shall determine the Adjusted Water Use Capacity of the proposed project.*
- e. *Based upon the review conducted in Rule 24-A-1, the General Manager shall determine if project will result in a positive, neutral or reduced Water Use Capacity on the Site.*
  - (1) *An increase in Capacity (Intensification of Use) shall cause the calculation and collection of a Connection Charge prior to issuance of a Water Permit.*
  - (2) *No Connection Charge shall be assessed when there is no increase in Water Use Capacity.*
  - (3) *A reduction in Water Use Capacity shall result in a Water Use Credit upon verification that the former use has been permanently abandoned. This credit shall be established in conformance with Rule 25.5.*

**TABLE 1: RESIDENTIAL FIXTURE UNIT COUNT VALUES**

	Water Fixture Description	Fixture Unit Value
1	Washbasin (lavatory sink), each	1
2	Two Washbasins in the Master Bathroom	1
3	Toilet, Ultra Low Flush (1.6 gallons-per-flush)	1.7
4	Toilet, Ultra Low Flush (1.0 gallon-per-flush)	1.3
5	Toilet, Dual Flush Ultra Low Flush	1.3
6	Toilet, Ultra Low Flush (0.5 gallon-per-flush)	1
7	Urinal (1.0 gallon-per-flush)	1
8	Urinal (0.5 gallon-per-flush)	0.5
9	Waterless Urinal	0
10	Master Bathroom only (one per Site): Bathtub (may be Large Bathtub) & Separate Shower	3
11	Large Bathtub (may have Showerhead above)	3
12	Standard Bathtub (may have Showerhead above)	2
13	Shower, Separate Stall (one Showerhead)	2
14	Shower, each additional fixture (including additional Showerheads, Body Spray Nozzles, etc.)	2
15	Shower System, Rain Bars, or Custom Shower (varies according to specifications)	2
16	Kitchen Sink <sup>1</sup> (including optional adjacent Dishwasher)	2
17	Kitchen Sink with adjacent Ultra-Low Consumption Dishwasher	1.5
18	Dishwasher, each additional (including optional adjacent sink)	2
19	Dishwasher, ultra-low consumption, each additional (including optional adjacent sink)	1.5
20	Laundry Sink/Utility Sink (debit/Connection Charge applies to only one Laundry/Utility Sink per Residential Site)	2
21	Washing Machine	2
22	Washing Machine, ultra-low consumption (18 gallons maximum per cycle)	1
23	Washing Machine, ultra-low consumption (18-28 gallons maximum per cycle)	1.5
24	Bidet	2
25	Bar Sink	1
26	Entertainment Sink	1
27	Vegetable Sink	1
28	Swimming Pool (each 100 square-feet of pool surface area)	1
29	Outdoor Water Uses (new Connection only) – (Lot size of 10,000 square-feet or less) (1) 50% total interior fixture units, (2) 25% interior fixture unit count when restricted by Jurisdiction mandate and enforcement to native Landscaping only.	
30	Outdoor Water Uses (new Connection only) – (Lot size exceeding 10,000 square-feet) (1) 50% total interior fixture units, plus additional fixture unit count values based on MAWA if greater than 50% (2) 25% interior fixture unit count when restricted by Jurisdiction mandate and enforcement to native Landscaping only.	

<sup>1</sup> When a Kitchen Sink exists without the benefit of a Dishwasher, a Dishwasher may be added without a Water Permit.

2. **Exempt Residential Water Fixtures.** *The following water fixtures shall be exempt from the Residential permit requirements and shall have no fixture unit value: Portable Water Fixtures, fountains, ponds, hot tub/spas, drinking fountains, pot fillers, darkroom sinks, outdoor showers, outdoor sinks, pet/livestock wash racks and water troughs, and multiple Utility Sinks (more than one per Site).*
3. **Second Bathroom Addition.** *A distinctive water permit protocol shall apply to any Residential application that proposes to add a second Bathroom to an existing Single-Family Dwelling on a Single-Family Residential Site that, prior to the application, has less than two Bathrooms.*
  - a. *The second bathroom protocol shall be limited, and shall apply only to the following water appliances if they are installed in a new second Bathroom as an expansion of an existing Single-Family Dwelling: (a) a single toilet, and (b) a single Standard Bathtub, or single Shower Stall, or a single standard tub-shower combination, and (c) one or two Washbasins.*
  - b. *The second bathroom protocol shall further apply on a pro rata basis to any Residential application that proposes to add one or more of the referenced water appliances to an existing second Bathroom which lacks that same appliance within an existing Single-Family Residential Site and, prior to the application, has less than two full Bathrooms.*
  - c. *The second bathroom protocol shall apply only to a Single-Family Dwelling on a Single-Family Residential Site that had a final building permit as of May 16, 2001.*
  - d. *The second bathroom protocol shall not apply to any Multi-Family Dwelling or Multi-Family Residential Site as defined by these Rules and Regulations.*
  - e. *A valid Water Use Credit for the permanent abandonment of a one Bathroom Single-Family Dwelling on a Single-Family Residential Site issued prior to May 16, 2001 shall be regarded as an existing Single-Family Dwelling for 120 months following demolition and shall allow the reconstruction of a Single-Family Dwelling with the addition of the water fixtures allowed by this provision as long as the credit is valid.*
  - f. *Water fixtures installed pursuant to this provision shall be installed within the existing Single-Family Dwelling.*
  - g. *Under this second Bathroom protocol, the General Manager shall not debit the Jurisdiction's Allocation for the installation of select water fixtures in the second Bathroom.*

- h. *Connection Charges shall nonetheless be collected for the addition of fixture units in the second Bathroom.*
  - i. *No On-Site, off-site or transfer of credit shall be granted for removal or retrofit of any fixture added pursuant to this second Bathroom protocol.*
  - j. *Use of the second Bathroom protocol is voluntary. Any property installing a second Bathroom pursuant to this provision shall be limited to two Bathrooms unless the second Bathroom is permitted by debit to a Jurisdiction's Allocation. A Notice Of The Limitation Of Use Of Water On A Property shall be recorded on the real property as a condition of the Water Permit.*
  - k. *As a condition to the issuance of any Permit pursuant to this rule, each property owner shall authorize the District to access and use water records related to the past, present and future use of water on the Site for a period of sixty (60) months prior to and following the date the Permit is issued.*
  - l. *The provisions of this second Bathroom protocol shall take precedence and supersede any contrary provision of the Water Management District Rules and Regulations.*
4. *Master Bathroom Fixture Unit Accounting.*
- a. *All fixtures utilizing a Master Bathroom fixture unit value as shown in Table 1: Residential Fixture Unit Count Values shall occur in the same Bathroom, and that Bathroom shall be designated as the "Master Bathroom." Each Dwelling Unit shall have no more than one Master Bathroom.*
  - b. *The Master Bathroom fixture unit value shall not apply to second Bathrooms utilizing the second Bathroom protocol.*
5. *Exterior Residential Water Demand Calculations*
- a. *Sites of Less Than 10,000 square-feet.* *For all new Connections on Sites of less than 10,000 square-feet, the Exterior Water Demand Calculation shall be 50 percent of the interior fixture unit value.*
  - b. *Sites of 10,000 Square-Feet or Greater.* *For all new Connections on Sites of 10,000 square-feet or greater, the Exterior Water Demand Calculation shall be the Maximum Applied Water Allowance (MAWA), or 50 percent of the interior fixture units, whichever is greater. The following calculation should be used to determine the MAWA:*

$$MAWA = \frac{ET_o \times ET_{adj} \times LA \times IE}{325,851}$$

Where:

- *MAWA* = Maximum Applied Water Allowance (gallons/year)
- *ET<sub>o</sub>* = Reference Evapotranspiration (inches per year)
- *ET<sub>adj</sub>* = Target ET Adjustment Factor shall be 0.8
- *LA* = Landscaped Area of Site (square feet)
- 325,851 = Gallons-per-Acre-Foot
- *IE* = Target Irrigation Efficiency shall be 0.625

- c. *Sites with Jurisdiction Landscaping Restrictions.* For all new Connections on Sites where native Landscaping is a requirement of and enforced by the Jurisdiction, the Exterior Water Demand Calculation shall be 25 percent of the interior fixture unit value. The native Landscaping requirement shall be a recorded covenant on the title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that any change of Landscaping may constitute an Intensification of Use which could result in payment of additional Connection Charges and debits to a Jurisdiction's Allocation or Water Entitlement.

6. *Calculating Adjusted Water Use Capacity.*

- a. Each fixture unit shall have a value of 0.01 Acre-Foot of water.
- b. Water use calculations shall be rounded to the third decimal place.

**B. NON-RESIDENTIAL CALCULATION OF WATER USE CAPACITY**

*Non-Residential Water Use Capacity shall be calculated using Table 2: Non-Residential Water Use Factors. Each Non-Residential use shall be assigned a factor that when multiplied by a specified measurement shown on Table 2 (i.e., square-footage, number of rooms/seats, etc.) results in an estimate of the approximate annual Water Use Capacity in acre-feet. Non-Residential applications shall be reviewed to determine if there is an increase in water demand as a result of the proposed project. Amendments to Table 2 shall be made by Resolution of the Board of Directors.*

1. *Methodology for Determining Water Use Capacity.* The following process shall be used to determine if there is an increase in Water Use Capacity:
- a. The General Manager shall estimate Water Use Capacity of the proposed project using the Water Use Factors from Table 2: Non-Residential Water Use Factors.

(1) *New Construction: When the Non-Residential Water Use Factor is based on a square-footage factor, the entire square-*

*footage shall be applied to the factor for construction of a new building.*

- (2) Tenant Improvements: When the Non-Residential Water Use Factor is based on a square-footage for a Tenant Improvement, the usable square-footage shall be applied to the factor.*
- b. When a Non-Residential project proposes two or more of the uses set forth in Table 2, each proposed use shall be subject to a separate calculation. By way of example, a motel/restaurant would be subject to both the motel use by unit and the restaurant use by seat calculation. Similarly, a gas station with a retail facility would be subject to both the gas station use by pump and the retail use by square-footage. Where a proposed use may be designated as more than one category, the category which most accurately depicts projected water use shall be selected or the uses shall be calculated based on the square-footage or other factor for each area in which the use occurs. When the proposed use appears to fall into more than one category, the higher intensity use category shall be chosen.*
- c. For New Construction on Vacant Lots, the General Manager shall add the quantity of water determined to be the exterior water demand based on the MAWA to the total Estimated Annual Water Use Capacity determined in 24-B-1-a.*
- d. If the application includes a Non-Residential use that is not identical to or similar to those uses shown on Table 2: Non-Residential Water Use Factors, the General Manager shall research the projected annual consumption of the use and shall recommend a value to the Board that corresponds to the Estimated Annual Water Use Capacity.*
- e. The General Manager shall compare the pre-project Estimated Annual Water Use Capacity against the Estimated Annual Water Use Capacity shown on the Construction Plans submitted with the Water Release Form and Water Permit application. Pre-project Estimated Annual Water Use Capacity may be verified by inspection.*
- f. The General Manager shall reduce the Estimated Annual Water Use Capacity by any verified Water Use Credit or On-Site Water Credit applicable to the application as shown on the Water Release Form and Water Permit application and shall determine the Adjusted Water Use Capacity of the proposed project.*
- g. Based upon the review conducted in 24-B-1-f, the General Manager shall determine if the project will result in a positive, neutral or reduced Water Use Capacity on the Site.*

- (1) An increase in Capacity (Intensification of Use) shall cause the calculation and collection of a Connection Charge prior to issuance of a Water Permit.***
- (2) No Connection Charge shall be assessed when there is no increase in Water Use Capacity.***
- (3) A reduction in Water Use Capacity shall result in a Water Credit upon verification that the former use has been abandoned. This credit shall be established in conformance with Rule 25.5.***

**TABLE 2: NON-RESIDENTIAL WATER USE FACTORS**

**Group I - Low to Moderate Use**

**0.00007 AF/SF**

<i>Auto Uses</i>	<i>Retail</i>	<i>Warehouse</i>	<i>Dental/Medical/Veterinary Clinics</i>	<i>Fast Photo</i>
<i>Church</i>	<i>Nail Salon</i>	<i>Family Grocery</i>	<i>Office</i>	<i>School</i>
			<i>Bank</i>	<i>Gym</i>

**Group II - High Use**

**0.0002 AF/SF**

<i>Bakery</i>	<i>Pizza</i>	<i>Coffee House</i>	<i>Supermarket/Convenience Store</i>
<i>Dry Cleaner</i>	<i>Deli</i>		<i>Sandwich Shop</i>

**Group III - Miscellaneous Uses - Each Category is Calculated Separately**

<i>Assisted Living (more than 6 beds)</i>	<i>0.085 per bed</i>
<i>Beauty Shop/Dog Grooming</i>	<i>0.0567 AF/station</i>
<i>Child Care</i>	<i>0.0072 AF/child</i>
<i>Dormitory<sup>1</sup></i>	<i>0.040 AF/room</i>
<i>Gas Station</i>	<i>0.0913 AF/pump</i>
<i>Laundromat</i>	<i>0.200 AF/machine</i>
<i>Meeting Hall</i>	<i>0.00053 AF/sf</i>
<i>Motel/Hotel/Bed and Breakfast:</i>	<i>0.100 AF/room</i>
<i>w/Large Bathtub (add to room factor)</i>	<i>0.030 AF/tub</i>
<i>Irrigated areas not immediately adjacent (i.e. within 10 feet of any building): MAWA</i>	
<i>Plant Nursery</i>	<i>0.00009 AF/sf total land</i>
<i>Public Toilets</i>	<i>0.058 AF/toilet</i>
<i>Public Urinals</i>	<i>0.036 AF/urinal</i>
<i>Waterless Urinals</i>	<i>No value</i>
<i>Restaurant (General/Bar):</i>	<i>0.020 AF/seat</i>
<i>Restaurant (24-Hour &amp; Fast Food):</i>	<i>0.038 AF/seat</i>
<i>Self-Storage</i>	<i>0.0008 AF/storage unit</i>
<i>Skilled Nursing</i>	<i>0.120 AF/bed</i>
<i>Spa</i>	<i>0.050 AF/spa</i>
<i>Swimming Pool</i>	<i>0.020 AF/100 sf surface area</i>
<i>Theater</i>	<i>0.0012 AF/seat</i>

**Group IV – Modified Non-Residential Uses** – Users listed in this category have reduced water Capacity from the types of uses listed in Groups I-III and have received a Water Use Credit for modifications. The General Manager shall maintain a list of specific properties in this Group that have received a Water Use Credit pursuant to Rule 25.5 for permanent reduction in use.

*Outdoor water use (new Connection only) shall be added to the factored total and shall be the MAWA for the irrigated area beyond the adjacent 10' as determined by a landscape plan and Landscape Water Budget prepared for the Site.*

*Note: Any Non-Residential water use which cannot be characterized by one of the use categories set forth in Table 2 shall be designated as "other" and assigned a factor which has a positive correlation to the anticipated Water Use Capacity for that Site.*

<sup>1</sup> Dormitory water use at educational facilities is a Residential use although the factor is shown on Table 2.



2. **Exterior Non-Residential Water Demand Calculations**

*For all new Connections on Non-Residential and Mixed Use Sites, the Exterior Water Demand Calculation shall be the Maximum Applied Water Allowance (MAWA) for the irrigated areas not immediately adjacent to the building(s) (i.e. beyond 10') as determined by review of the Landscaping and irrigation plans for the project Site. The following calculation should be used to determine the MAWA:*

$$MAWA = \frac{ETo \times ETadj \times LA \times IE}{325,851}$$

*Where:*

- *MAWA = Maximum Applied Water Allowance (gallons/year)*
- *ETo = Reference Evapotranspiration (inches per year)*
- *ETadj = Target ET Adjustment Factor shall be 0.8*
- *LA = Landscaped Area of Site (square feet)*
- *325,851 = Gallons-per-Acre-Foot*
- *IE = Target Irrigation Efficiency shall be 0.625*

3. **Calculating Adjusted Water Use Capacity.** *Water use calculations shall be rounded to the third decimal place.*

**C. WATER SUPPLY COST COMPONENT**

*The water supply cost component used as a monetary multiplier in each Connection Charge calculation required by this rule shall be \$10,623.20. This water supply cost component shall be adjusted on July 1st of each year beginning in July, 1985, to include the annual increase or decrease of the April Consumer Price Index (CPI), all items, for San Francisco/Oakland, as promulgated by the U.S. Department of Labor Bureau of Statistics. The adjusted multiplier shall apply to each Water Permit application received on or after July 1st of each year. Table 3: Connection Charge History shall be updated annually by Resolution of the Board to reflect the current year's Connection Charge.*

**TABLE 3: CONNECTION CHARGE HISTORY**

<b>YEAR</b>	<b>CONNECTION CHARGE</b>
<b>1985</b>	<b>\$10,623.20</b>
<b>1985-86</b>	<b>\$11,133.00</b>
<b>1986-87</b>	<b>\$11,433.59</b>
<b>1987-88</b>	<b>\$11,890.93</b>
<b>1988-89</b>	<b>\$12,295.22</b>
<b>1989-90</b>	<b>\$12,983.75</b>
<b>1990-91</b>	<b>\$13,529.07</b>
<b>1991-92</b>	<b>\$14,056.70</b>
<b>1992-93</b>	<b>\$14,661.00</b>
<b>1993-94</b>	<b>\$15,202.00</b>
<b>1994-95</b>	<b>\$15,325.00</b>
<b>1995-96</b>	<b>\$15,692.00</b>
<b>1996-97</b>	<b>\$15,960.00</b>
<b>1997-98</b>	<b>\$16,551.00</b>
<b>1998-99</b>	<b>\$17,048.00</b>
<b>1999-2000</b>	<b>\$17,832.00</b>
<b>2000-01</b>	<b>\$18,492.00</b>
<b>2001-02</b>	<b>\$19,565.00</b>
<b>2002-03</b>	<b>\$19,976.00</b>
<b>2003-04</b>	<b>\$20,415.00</b>
<b>2004-05</b>	<b>\$20,517.00</b>
<b>2005-06</b>	<b>\$20,948.00</b>
<b>2006-07</b>	<b>\$21,618.00</b>

**D. CALCULATION OF CONNECTION CHARGES**

*The Connection Charge paid for a Water Permit shall be determined by multiplying the Adjusted Water Use Capacity by the current Connection Charge. This charge shall be applied to each application for a Water Permit as follows:*

- 1. Projects served by California-American Water Company (main system) and Seaside Municipal Water Company shall pay 100 percent of the final calculation.*
- 2. All other Water Distribution Systems including private wells and other Water Distribution Systems owned and/or operated by California American Water Company outside of the main system shall pay 18.67 percent of the final calculation.*

**E. ADJUSTMENT OF CALCULATIONS WHERE SPECIAL CIRCUMSTANCES EXIST**

- 1. The General Manager may reduce (or increase) the Adjusted Water Use Capacity when Special Circumstances exist with respect to the anticipated water consumption resulting from that Permit. Special Circumstances shall be deemed to exist in the following circumstances:*
  - a. After project completion and verification that Sub-Potable Water or untreated well water is the exclusive supply for all exterior uses, the General Manager may make a proportional adjustment for the final Adjusted Water Use Capacity and shall refund that portion of the Connection Charge and the portion of water debited from an Allocation or Water Entitlement.*
  - b. Projects that utilize water in conjunction with a manufacturing process.*
  - c. Non-Residential projects owned by a Public entity.*
- 2. The preliminary Estimated Annual Water Use Capacity Adjustment shall operate to exact a Connection Charge as it relates to the increment of water which is projected to be available to and subject to use by the Applicant as a function of the Connection or the use of water. In the absence of a comparable water use factor on Table 2, the General Manager may make this adjustment based upon projected use figures supported by historical use or other relevant documentation. In the absence of special circumstances, calculation of the Estimated Annual Water Use Capacity shall be made by use of Non-Residential Water Use Factors shown on Table 2.*
- 3. The General Manager shall be granted authority to factor Adjusted Water Use Capacity and Connection Charges for Industrial and Public projects based upon the actual average annual water use record following 60 months of occupancy and use without the necessity of a hearing before the Board of Directors. The process shall require payment of an estimated Connection*

*Charge and corresponding Allocation or Water Entitlement debit. The final Connection Charge and corresponding Allocation or Water Entitlement debit shall be adjusted upon the actual annual water use record for that Connection.*

4. *For all situations where the General Manager finds Special Circumstances with Substantial Uncertainty exist regarding the Estimated Annual Water Use Capacity proposed by the permit Applicant, the Board shall consider approving a Water Permit upon payment of an estimated Connection Charge and corresponding Allocation or Water Entitlement debit. The final Connection Charge and corresponding Allocation or Water Entitlement debit shall be adjusted upon the actual average annual water use record for that Connection.*
5. *This Rule shall not apply where a single meter supplies more than one water User.*
6. *All Water Permits issued with a finding of Special Circumstances shall be subject to the following conditions:*
  - a. *A deed restriction listing the conditions of the permit shall be recorded on the property prior to issuance of a Water Permit.*
  - b. *By written communication, the Jurisdiction shall authorize the District to issue a Water Permit based on a finding of Special Circumstances consistent with CEQA compliance for the approved project.*
  - c. *The Jurisdiction shall acknowledge in writing to the District that annual average water use above the preliminary Estimated Annual Water Use Capacity shall either result in a debit to its Allocation or shall require additional action to reduce or offset water use as authorized by the District Board.*
  - d. *Approval of Special Circumstances with Substantial Uncertainty is valid for thirty-six (36) months. The project shall be completed within thirty-six (36) months of District approval. One extension of time for twelve (12) months will be granted by the General Manager upon evidence of due diligence by the Applicant.*
  - e. *The project shall be exclusively equipped with all reasonable conservation measures as determined by the General Manager.*
  - f. *The property owner shall agree to allow public access to water consumption records for the life of the project. Access shall be authorized by recordation of the appropriate deed restriction.*
  - g. *A detailed landscape plan and Landscape Water Budget, including the MAWA calculation, shall be included with the Water Permit application.*

- h. *Prior to issuance of a Water Permit, the Water Permit Applicant shall submit Connection Charges and processing fees as outlined in Rule 24 and Rule 60.*
  - i. *A water meter shall be installed to monitor exterior water use, apart from any interior use. District staff shall have access to the water meters and consumption reports upon reasonable request.*
  - j. *The property owner or his agent shall annually complete and submit a Special Circumstances Review Form and applicable attachments to the District by February 1. The Special Circumstances Review Form shall require the property owner to provide information about the project's annual water use and practices, copies of the past year's water bills, information about the performance of any special appliances, and other information useful in reviewing project-related water demand. The Special Circumstances Review Form shall be submitted each year during construction and for ten years following full occupancy after completion of the project.*
  - k. *Water use will be reviewed annually after occupancy. If actual water use exceeds the preliminary Water Use Capacity estimate during any annual review, the District will debit the Jurisdiction's Allocation for the difference. At the end of the monitoring period, if the average annual water use exceeds the preliminary Water Use Capacity estimate, the District will determine whether the Jurisdiction shall transfer some of its Allocation to the project, or whether the Applicant shall pay the cost of District-approved water conservation projects within the District or on the project Site to establish Water Use Credits to offset the increased increment of water needed by the project.*
  - l. *The Applicant and any successor in interest to the Water Permit shall enter into an indemnification agreement with the District, whereby the Applicant agrees to indemnify, defend and hold harmless the District from any and all legal and financial responsibility that may arise in connection with approval of the application, including but not limited to attorney's fees and costs that the District may incur.*
7. *The Board shall specify the appropriate number of years to monitor actual annual water use when it finds Special Circumstances with Substantial Uncertainty exist.*
8. *In all applications where evidence does not support the finding that Special Circumstances with Substantial Uncertainty exist regarding a project's Water Use Capacity, it shall be presumed that the Non-Residential Water Use Factors as shown on Table 2 apply to the Permit.*

9. *Determinations of the General Manager pursuant to this Rule may be appealed to the Board.*

**F. CONNECTION CHARGE REFUNDS**

1. *The Connection Charge paid for a Water Permit under these Rules and Regulations shall be a fee retained by the District in consideration of, and as reimbursement for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District.*
2. *If a project, as built, eliminates all or a portion of the Adjusted Water Use Capacity upon which the Water Permit was originally calculated, a refund of that portion of the Connection Charge may occur.*
3. *Refunds of Connection Charges shall occur if the permit is abandoned prior to construction.*
4. *Refunds will only occur if a reduction in the Water Use Capacity is documented, or for abandoned projects, if the Applicant has permanently removed the water meter and canceled the building permit.*
5. *Requests for refunds shall be in writing, and shall include the Water Permit number and the reason a refund is requested. Refunds are subject to fees under Rule 60.*
6. *All refunds shall be made to the then-current titleholder of the real property to which the Water Permit was issued.*
7. *Refunds requested for Connection Charges paid for a Conditional Water Permit shall be processed under the following time lines and shall be subject to an administrative processing fee of one hundred dollars (\$100):*
  - a. *Refunds of less than fifty thousand dollars (\$50,000) shall be processed within thirty (30) days;*
  - b. *Refunds between fifty thousand dollars (\$50,000) and one hundred thousand dollars (\$100,000) shall be processed within forty-five (45) days;*
  - c. *Refunds over one hundred thousand dollars (\$100,000) shall be processed within sixty (60) days.*

**G. CONNECTION CHARGE FUND ACCOUNTING**

1. *The District shall maintain separate accounts in its general fund for Connection Charges received. Those separate fund accounts shall be maintained and designated as Connection Charge accounts "A" and "B". Account "A" shall receive 18.67% of all Connection Charges collected.*

*Account "B" shall receive 81.33% of all Connection Charges collected. The proceeds of any connection surcharge shall be transferred to the District's general fund, without restriction.*

2. *Connection Charge funds shall be expended from Connection Charge accounts "A" and "B" for the sole purpose of planning for, acquiring and/or reserving augmented water supply capacity for District water distribution facilities. It is recognized that such purposes include engineering, hydrologic, geologic, fishery, appraisal, financial, and property acquisition endeavors. Connection Charge funds may further be used to acquire, maintain, and/or reserve capacity in existing water distribution facilities existing within the District.*

#### **H. PERMIT FEE PAYMENT PLANS**

1. *Except as may be required by operation of law, or as approved by the Board of Directors on a case-by-case basis pursuant to this Rule, the District shall not authorize a payment plan for fees and charges due for the issuance of a Water Permit. This means that no Permit will be issued by the District unless all required fees and charges have first been paid in full to the District. In any circumstance where a Permit has been issued on less than full payment of all fees and charges due from that Parcel, that Permit shall immediately be suspended and thereafter revoked. Revocation of a Water Permit shall cause removal or limitation of water service to that Connection.*
2. *Notwithstanding any provision of this Rule, the Board, on a case-by-case basis, may authorize delayed payment for projects which are solely undertaken by California Non-Profit Public Benefit Corporations provided each such plan shall ensure, by recorded deed restriction which includes the consent of each property owner, that all fees and charges due for the issuance of a Water Permit, together with deferred interest at the rate to be set by the Board, shall be paid in full in the event project ownership or occupancy is transferred to any entity other than a California Non-Profit Public Benefit Corporation. This provision is intended for use only in the presence of a substantial financial hardship to the project proponent such that the development of the project would be jeopardized by the present assessment of the full fees and charges due for the issuance of a Water Permit.*

#### **Section Eight:       Amendment of Rule 25: Cancellation of Permits**

Rule 25 shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strike through~~):

#### **RULE 25 – CANCELLATION, EXPIRATION, SUSPENSION, ABANDONMENT AND REVOCATION OF WATER PERMITS**

- A. All ~~p~~***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 two (2) years after the date of issuance or upon expiration of the building 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 *Water pPermits* have expired or have been canceled may re-apply for a new *Water pPermits* pursuant to Rule 20. The District shall not accept any Water Release Form after the date specified by any jurisdiction. A new *Wwater Rrelease Fform* will be required for all permit applications, or requests for extension *renewal* of a *Water pPermit*. The District, however, shall not extend *reissue* a *Water pPermit* for any Site on which a permit violation of District rules has been noticed and has not been corrected and verified.~~

~~B. All water 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 water permit pursuant to Rule 20.~~

~~C.B. The District Board *General Manager* may suspend processing a *Water Permit application* revoke any permit issued pursuant to these Rules and Regulations whenever it *the General Manager* finds any of the following:~~

- ~~1. That any requirement or condition of the *Water pPermit* is not being met.~~
- ~~2. That the permittee *property owner or permit Applicant* has violated any provision of these Rules and Regulations.~~
- ~~3. That the permittee *property owner or permit Applicant* has misrepresented intentionally or negligently any material fact in the *Water pPermit* application or in any supporting documents.~~

~~C. The District Board may revoke any *Water Permit* issued pursuant to these Rules and Regulations whenever it finds any of the following:~~

- ~~1. That any requirement or condition of the *Water Permit* is not being met.~~
- ~~2. That the *property owner or permit Applicant* has violated any provision of these Rules and Regulations.~~
- ~~3. That the *property owner or permit Applicant* has misrepresented intentionally or negligently any material fact in the *Water Permit* application or in any supporting documents.~~



D. Adjustment of Allocation *or Water Entitlement* for *Expired, Suspended, Canceled*, Abandoned or Revoked Permits.

1. Any permitted water Capacity which is not used because of an abandoned, expired, revoked, *suspended*, or ~~returned canceled~~ permit shall be returned to the *applicable* Allocation *or Water Entitlement* ~~applicable to that Jurisdiction (or the District Reserve) upon the expiration or revocation of that permit.~~
2. ~~Issuance of a~~ *Any current* Water Use Credit pursuant to ~~Rule 25.5~~ shall *revert to the originating Site and shall remain available for use pursuant to Rule 25.5.* ~~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.~~

E. Refunds shall be issued according to Rule 24-~~HF~~, Connection Charge Refunds.

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

- A. Rule 25.5, as published prior to the adoption of this ordinance, and as shown in strikeout below, shall be deleted in its entirety.

**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. ~~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, (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.~~

~~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 reuse of saved water on the Site.~~

~~1. Water Use Credits may be moved between one or more structures on the same Site.~~

~~2. When Water Use Credits are used to create a new User, the Site must have been under the current ownership for at least 24 months.~~

~~3. 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.~~

B. The following text (*shown in bold italics*) shall replace Rule 25.5 as deleted by this ordinance:

**RULE 25.5 - WATER USE CREDITS AND ON-SITE WATER CREDITS**

A. *Except where a Water Permit has been abandoned, expired, revoked, suspended, or canceled 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. 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 25.5-G. Except as allowed by Rule 28, Water Use Credits shall not be transferable to any other Site.*

B. *Water savings resulting from mandatory District programs, including water savings resulting from the installation of Low Water Use Plumbing Fixtures Mandated by the District, shall not result in a Water Use Credit. Such savings shall be set aside as permanent water conservation savings*

*essential to the District's 15 percent conservation goal approved by the Board in March 1984.*

- C. A Water Use Credit 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, the General Manager shall allow renewal of this Water Use Credit only upon verification that some or all water savings represented by that credit are current (i.e. no Water Permit or other use or transfer of the Water Use Credit has occurred). 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.*
- D. 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.*
- E. The following types of Permanent Abandonment of Capacity shall qualify for a Water Use Credit under this Rule:*

  - 1. Demolition of a building or use that has been recognized by the District as being a lawful water use;*
  - 2. Permanent disconnection of a lawful water use from a Water Distribution System;*
  - 3. Residential removal of water fixtures;*
  - 4. Permanent installation of non-Mandated water fixtures or appliances.*
- F. To determine a Water Use Credit, the General Manager shall:*

  - 1. Verify that the reduction is one which is permanent (i.e. Permanent Abandonment of Use).*
  - 2. Quantify the Water Use Capacity of the Site using the water use factors from Rule 24, Tables 1 and/or 2. If no factor is available on Table 2 or if the use is substantially different than any of the uses shown on Table 2, the General Manager may make an estimate based upon water records showing the average use over a minimum of ten years.*
  - 3. Grant a Water Use Credit for the permanent removal of water using fixtures providing that the fixture was properly and lawfully installed. Credit for fixtures listed in Rule 24-A-2 shall only receive*

*a Water Use Credit upon evidence of a Water Permit showing a debit to a Jurisdiction's Allocation and payment of related Connection Charges.*

*a. Water Use Credits for multiple Showerheads shall be limited to a maximum of four (4) fixture units per Separate Stall Shower or Bathtub. A Shower System shall be considered a component of a Separate Stall Shower or Bathtub for purposes of this Rule.*

*b. Credit shall not be given for any reduction which occurs as the result of the removal of Landscaping installed without a Water Permit. An exception to this limitation shall be made for Landscaping that was specifically identified, quantified, and permitted by the District.*

*4. Quantify the water use reduction (the abandoned Capacity) using the following methods:*

*a. Residential Water Use Credit for demolitions, permanent disconnection of water service, and permanent removal of water fixtures shall be determined using the Fixture Unit Values from Rule 24, Table 1: Residential Fixture Unit Count Values.*

*b. Residential Water Use Credits shall only be granted for installation of ultra-low consumption appliances. Table 4: Ultra-Low Consumption Appliance Credits shall list the ultra-low consumption appliances and the quantity of Water Use Credit available for the permanent installation of the appliance. This table shall be amended by Resolution of the Board of Directors.*

<b>Table 4: Ultra-Low Consumption Appliance Credits</b>		
<b><i>Appliance</i></b>	<b><i>Description</i></b>	<b><i>Water Use Credit in Acre-Feet</i></b>
<b><i>Dual Flush Ultra-Low Flush Toilet</i></b>	<b><i>A toilet designed to allow the User to choose between a light flush (usually 0.8 gallon) and a longer 1.6-gallon flush.</i></b>	<b><i>0.004 AFA</i></b>
<b><i>Instant-Access Hot Water System</i></b>	<b><i>A recirculating hot water system or other device that results in hot water contact at every point of access throughout the structure within ten (10) seconds.</i></b>	<b><i>0.005 AFA</i></b>
<b><i>Ultra-Low Consumption Dishwasher</i></b>	<b><i>A dishwasher designed to use a maximum of 7.66 gallons during every complete cycle.</i></b>	<b><i>0.005 AFA</i></b>
<b><i>Ultra-Low Consumption Washing Machine (18-28 gallons)</i></b>	<b><i>A washing machine designed to use a maximum of 28 gallons during every complete cycle.</i></b>	<b><i>0.005 AFA</i></b>
<b><i>Ultra-Low Consumption Washing Machine (18 gallons maximum)</i></b>	<b><i>A washing machine designed to use a maximum of 18 gallons during every complete cycle.</i></b>	<b><i>0.01 AFA</i></b>
<b><i>Ultra-Low Flush Half Gallon-Per-Flush Toilet</i></b>	<b><i>A toilet designed to use a maximum of half gallon of water per flush.</i></b>	<b><i>0.007 AFA</i></b>
<b><i>Ultra-Low Flush One Gallon-Per-Flush Toilet</i></b>	<b><i>A toilet designed to use a maximum of one gallon of water per flush.</i></b>	<b><i>0.004 AFA</i></b>

- c. *Non-Residential Water Use Credit for demolition and for permanent disconnection of water service shall be determined using Table 2: Non-Residential Water Use Factors.*
- d. *Non-Residential Water Use Credit for retrofits with Ultra-Low Consumption Technology shall be documented under the following circumstances and shall be granted for the increment of water savings beyond the water savings anticipated from the installation of Low Water Use Plumbing Fixtures and other District mandates:*
- (1) *Application for Water Use Credit Post-Retrofit. The Applicant shall submit clear and convincing evidence of water savings. This shall be accomplished by providing the District with a minimum of ten (10) years of documented pre-retrofit water history for the use from the Water Distribution System (i.e. bills or correspondence from the Water Distribution System Operator) along with two or more years of post-retrofit water history for the use (i.e. bills or correspondence from the Water Distribution System Operator). When ten years of water history for a use is unavailable or when less than two years of post-retrofit water history is available, the Applicant shall obtain an independent third party's review of the projected water savings. The District shall maintain a list of persons qualified to prepare a third party water conservation analysis. In all cases, the District shall verify the installation of Ultra-Low Consumption Technology by conducting an inspection.*
- (2) *Application for Water Use Credit Pre-Retrofit. The Applicant shall submit clear and convincing evidence of water savings. This shall be accomplished by providing the District with a minimum of ten (10) years of documented pre-retrofit water history for the use from the Water Distribution System (i.e. bills or correspondence from the Water Distribution System Operator ) to establish a baseline consumption level. When ten years of pre-retrofit water history for a use is unavailable, the factor from Rule 24, Table 2: Non-Residential Water Use Factors shall be used as the historic use baseline. To substantiate projected water savings resulting from the proposed retrofit(s), the Applicant shall submit additional documentation to support the estimated water savings. Finally, the*

*Applicant shall obtain an independent third party's review of the projected water savings. The District shall maintain a list of persons qualified to prepare a third party water conservation analysis. In all cases, the District shall verify the installation of Ultra-Low Consumption Technology by conducting an inspection.*

*(3) When a Non-Residential Water Use Credit is requested for a Site that cannot demonstrate that the Site was equipped with Low Water Use Plumbing Fixtures for the full period of the water records used, there shall be a 15 percent reduction of the final calculated Water Use Credit.*

*(4) In the event that the General Manager disagrees with the amount of water savings resulting from the installation of Ultra-Low Consumption Technology, the complete Water Use Credit application shall be presented to the Board for further consideration.*

*5. Written notification of the quantity and expiration of a Water Use Credit shall be provided to the Applicant and to the property owner.*

*G. A valid Water Use Credit may provide the basis for the General Manager to issue a Water Permit for new, modified, or Intensified Water Use on that Site.*

*1. There shall be no Connection Charge assessed for 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.*

*2. Use of a documented Water Use Credit to offset an Expansion of Use shall cause recordation of a Notice and Deed Restriction Regarding Limitation on Use of Water on a Property.*

*3. No Connection Charge refund shall accrue by reason of a water use reduction or abandonment of Capacity, whether or not reflected by a Water Use Credit.*

*4. Issuance of a Water Use Credit shall not result in any change to a Jurisdiction's Allocation or to any Water Entitlement. Use of any Water Use Credit shall similarly not result in a change to a Jurisdiction's Allocation or any Water Entitlement.*



- H. *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.*
- I. *A Water Use Credit shall enable reuse of saved water on the Site.*
1. *Water Use Credits may be moved between one or more structures on the same Site or may be used to construct new uses on the same Site.*
  2. *The District shall not require an additional increment of water 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. Examples of acceptable evidence are dated photographs, official documents, permits or correspondence of the Jurisdiction, receipts or invoices for gardening services or purchases related to Landscaping and maintaining Landscaping on the Site.*
  3. *A Water Use Credit for disconnection from a Potable Water Distribution System shall be granted by the General Manager only upon the removal of the Connection and written confirmation of such removal by the Water Distribution System Owner or Operator.*
- J. *An On-Site Water Credit resulting from the non-permanent removal of a lawful use that occurred on or after March 1, 1985, may be applied to, and shall allow, the future reuse of that increment of water on that Site. A Water Permit for reinstating the former use shall be required and allowed.*

**Section Ten:**      **Amendment of Rule 26: Rehearing**

Rule 26 shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strike through~~):

**RULE 26 – REHEARING RESUBMISSION OF DENIED APPLICATION**

Permission of the ~~District Board~~ ***General Manager*** shall be secured prior to resubmission of any application denied ***by the District*** within the preceding twelve (12) months.

**Section Eleven:      Amendment of Rule 28: Transfer**

Rule 28 shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~). [There are no changes proposed for Rule 28-B.]

**RULE 28 – PERMIT AND WATER USE CREDIT TRANSFERS**

**A.      *PERMIT TRANSFERS LIMITATION***

Any ~~p~~***Permit*** issued pursuant to these regulations may be transferred from one person to another upon payment of processing fees and charges required for issuance of an amended ~~p~~***Permit***, upon written notification to the District, ~~except as follows:~~

1.      ~~A~~ Water Permits ***is Site specific and*** may not be transferred from one location to another, ~~except as provided by Part B of this Rule;~~
2.      ~~Permits may not be transferred when the General Manager determines within thirty (30) days of the written notification required by this rule that the transfer may allow or facilitate increased water consumption of a water distribution system.~~ ***Permit transfer shall result in the reprinting of the former Water Permit with the new Applicant's contact information.***
3.      Transferred ~~p~~***Permits*** shall be subject to all conditions attached to the original ~~p~~***Permit and are subject to fees under Rule 60.*** Applicants who are not allowed to transfer a permit under this rule may apply for a new permit or an amendment to the existing permit pursuant to Rule 23.
4.      Determinations of the General Manager under this rule, ~~either allowing or refusing a permit transfer,~~ may be appealed to the Board pursuant to Rule 70 ***and Rule 71.***

**C.      *PUBLIC OPEN SPACE TRANSFERS (formerly Rule 24-B-2)***

***The General Manager, upon written request, shall enable a transfer of Water Use Credit derived from open space irrigation from one Site owned and operated by a Public entity to another Site owned and operated by that Public entity provided the use of transferred water shall be entirely dedicated to open space use.***

***The General Manager shall approve a Public open space transfer when the following criteria are met:***

1.      ***Transfers between different Public entities shall not be allowed.***

2. *Transfers from or to lands owned or operated by private (non-Public) individuals or companies shall not be allowed.*
3. *Transfers for other than open space use shall not be allowed.*
4. *Transfers which enable greater water use than the amount of water transferred shall be assessed Connection Charges. Water from the Jurisdiction's Allocation shall be debited for all Capacity of water use in excess of the transferred Water Use Credit pursuant to the process of Rule 23.*
5. *Any right or entitlement to Water Use Credit at the originating Site shall be terminated and extinguished to the extent of the Water Use Credit transferred.*
6. *Any new, expanded or modified use on the receiving Site shall require a Water Permit.*
7. *Conditions of the transfer shall be recorded on both the originating and receiving Sites.*

**Section Twelve:      Amendment of Rule 30: Determination Of Water Allocations**

Rule 30 shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~):

**RULE 30 – DETERMINATION OF WATER ALLOCATIONS**

- A. From any new supply of water, the District shall establish a specific Allocation for each Jurisdiction, and may also establish a District Reserve Allocation.
- B. Each ~~p~~*Permit* issued by the District for ~~new or Intensified Water Use~~ *that results in an increased Capacity for water use* shall cause an equivalent quantity of water to be debited from the appropriate Allocation account *when there is no alternative Water Entitlement or credit available to the property.*
- C. *The District may establish distinct Allocations or Water Entitlements as necessary to manage water supplies throughout the District.*

~~When a Jurisdiction can establish that permanent water savings have been achieved in excess of that necessary to sustain the 15% conservation target set forth by the District in the Water Allocation EIR, the excess increment of permanent water savings may be credited by the District to that Jurisdiction's Allocation. Credit shall not be given for any reduction which occurs by reason of a District sponsored or mandated program (e.g. retrofit on resale). Such credits shall be determined by a Resolution approved by the board of directors of the District. The Board shall adopt guidelines to guide the implementation of the credit process provided by this Rule.~~

**Section Thirteen: 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 Fourteen: Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on January 1, 2007.

This ordinance shall not have a sunset date.

**Section Fifteen: 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 18th day of September 2006, by the following vote:

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

NAYS: Director Lehman

ABSENT: None

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 18th day of September 2006.

Witness my hand and seal of the Board of Directors this 29th day of June 2007.

  
\_\_\_\_\_  
David A. Berger, Secretary to the Board

Clerical corrections made on 5/1/2007.