

Adopted June 18, 2007 -- Effective July 18, 2007

ORDINANCE NO. 128

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
CLARIFYING TERMS, RULES AND POLICIES RELATED TO WATER DISTRIBUTION
SYSTEMS, WATER PERMITS, WATER USE PERMITS, WATER CREDITS, AFFORDABLE
HOUSING, FEES AND THE EXPANDED WATER CONSERVATION AND STANDBY
RATIONING PLAN**

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. This ordinance is adopted to clarify terms, rules, policies, and fees of the District related to Water Distribution Systems, Water Permits, Water Use Permits, Affordable Housing, Water Credits and terms used in the Expanded Water Conservation and Standby Rationing Plan.
3. The definitions contained in this ordinance clarify terms related to the following processes: Water Distribution System Permits, Water Permits, and Water Use Permits. New terms are added to further improve other rules and policies of the District.
4. This ordinance shall revise, amend and republish Rules 11, 20, 21, 22, 23, 24.5, 25.5 and Rule 60 of the Rules and Regulations of the Water Management District.
5. This ordinance adds Rule 23.1 to the Rules and Regulations of the Water Management District to describe the process for issuing a Water Use Permit.
6. This ordinance amends Rule 20, Permits Required, to reflect the requirement for a deed restriction and payment of fees prior to Creating/Establishing a Water Distribution System.
7. This ordinance amends Rule 20 to exempt Parcels served by a Water Distribution System not regulated by the District from the District's Water Permit requirements.

8. This ordinance amends Rule 21, Applications, to provide an exemption to the requirement for a Water Release Form when the final Water Permit is amended after a final inspection to reflect less water fixtures than shown on the Water Permit.
9. This ordinance adds Rule 21-E to clarify the Water Use Permit Application (for properties eligible to obtain a portion of the Pebble Beach Company's Water Entitlement). Water Use Permit applications were previously considered only in Rule 23.5. Rule 23.5 was adopted by Ordinance No. 39 (2/13/1989) and amended by Ordinance No. 71 (12/20/1993) and Ordinance No. 109 (5/27/2004).
10. This ordinance amends Rule 22, Action on Application for Permit to Create/Establish a Water Distribution System, to reflect the requirement for recordation of a deed restriction(s) prior to final action and to make grammatical edits.
11. This ordinance amends Rule 22, Action on Application for Permit to Create/Establish a Water Distribution System, to require payment of fees to the District and/or its agents prior to finalizing a Permit.
12. This ordinance clarifies Rule 23, Action on Application for a Water Permit to Connect To or Modify an Existing Water Distribution System, to specify that a signed Water Release Form is not required to amend a Water Permit after a final inspection when the Water Permit reflects less fixture units or a lower Water Use Capacity than the original Water Permit.
13. This ordinance adds Rule 23.1, Action on Application for a Water Use Permit on a Benefited Property, to codify the procedure originally contemplated in Rule 23.5 for processing and issuing Water Use Permits to properties receiving a share of the Pebble Beach Company Water Entitlement (Ordinance No. 109, 5/27/2004). The Water Use Permit procedure was developed in cooperation and in coordination with the Pebble Beach Company.
14. This ordinance clarifies and amends Rule 24.5, Connections for Affordable Housing, to eliminate redundancy, streamline the language, and to add conditions of approval. References to "very low income" housing and households are eliminated, as these terms are covered under the "Low Income Housing" definition. Amendments to the definitions of Affordable Housing reflect the County-wide standard for determining affordable housing projects and were reviewed and accepted by the District's Technical Advisory Committee (TAC).
15. This ordinance amends Rule 25.5 to clarify that Water Use Credits are not available for removal of Residential Landscaping.

16. This ordinance amends Rule 25.5 to clarify that Water Use Credits from the permanent abandonment of specifically identified, quantified, and permitted Non-Residential Landscaping are calculated using the Estimated Applied Water calculation (the average estimated reasonable water needs after Landscaping establishment).
17. This ordinance amends Rule 60, Fees and Charges, to reflect the various categories of fees currently shown on the Fees and Charges Table.
18. This ordinance clarifies Rule 60-D by eliminating confusing language and clarifying that the Connection Charge process described in Rule 24 is not modified by changes to Rule 60.
19. This ordinance makes the general replacement of the following terms throughout the Rules and Regulations of the District: Cal-Am is replaced with California American Water, Dedicated Landscape Water Meter/Dedicated Landscape Meter is replaced with Dedicated Irrigation Meter, and Flagrant Occurrence is replaced with Flagrant Violation.
20. The proposed activities reflected in this ordinance are not subject to CEQA. The activities are not a project as defined in Guideline 15378, the activities do not involve the exercise of discretionary power by MPWMD, and they will not result in a direct or reasonably foreseeable indirect physical change in the environment in accordance with Guideline 15060.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the 2007 Permit Processing 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 Permits and Fees. This ordinance updates the definitions used by the District and simplifies the language of the current Rules related to Water Use Permits 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. The following text located at the beginning of Rule 11 shall be amended as shown in bold italics (***bold italics***) and strikeout (~~striketrough~~):

Except as otherwise specified in the Monterey Peninsula Water Management District Law, and except where the context otherwise indicates, the following words shall be defined below as indicated, including the definitions set forth in Rules 23.5-(F), 24.5-(A), and 42, and 141. ***The definition of a word applies to any of its variants (i.e. singular, plural, abbreviated, etc.).***

- C. 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 (~~striketrough~~). *Numbering is provided for ease of review only.*

1. AFFORDABLE HOUSING - "Affordable Housing" shall mean and refer to housing that is affordable to ~~Low or Moderate-Income~~ ~~Households~~. ***Affordable Housing is housing that can be rented or purchased by persons in the following income ranges, utilizing not more than 30% of their total income for housing:***

Low Income – Individuals or families who earn up to 80% of the median income of individuals or families living in Monterey County.

Moderate Income – Individuals or families who earn more than 80% and up to 120% of the median income of individuals or families living in Monterey County.

~~Such housing is affordable if the sales price is equal to or less than three times the maximum annual moderate income household income; or if rented, if the annual rent is equal to or less than 25% of the maximum annual moderate income household income. "Moderate Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.~~

~~The term "Affordable Housing" shall only apply to a "Dwelling Unit" which is available for private occupancy, but for which ownership and/or occupancy is restricted by recorded covenant or other deed restriction. This covenant or restriction shall be enforceable by either the District or the public and shall limit use of all "Affordable Housing" so that only households of "Moderate Income" or less shall qualify to occupy these units by purchase, by rent, or by lease. This covenant or restriction shall comply with the standards set by the California Department of Housing and Community Development (HCD) and the Monterey County Housing Authority for resale and occupancy of "Low Income" and "Moderate Income" housing, and shall require that the District receive notice prior to the removal or modification of that deed restriction. The recorded covenant shall further provide notice to each subsequent owner that any change of water use from an affordable housing use to any other residential or non-residential use shall constitute an intensification of use which shall require payment at the then present value of connection charges to the District both for the intensification of water use capacity and for the increment of water use which had originally been exempted from the full fee. The recorded covenant and shall be in a form approved by the District General Manager. This covenant shall also require the use and maintenance of water conservation measures as determined by the District General Manager which shall, among other things, maximize the use of low flow fixtures and drought resistant landscaping.~~

2. ***APN – "APN" shall mean the Monterey County Assessor's identification number for a specific property. The term "APN" shall have the same meaning as "Assessor's Parcel Number."***
3. ***ASSESSOR'S PARCEL NUMBER – "Assessor's Parcel Number" shall mean the Monterey County Assessor's identification number for a specific property. The term "Assessor's Parcel Number" shall have the same meaning as "APN."***
4. ***ASSIGNMENT DOCUMENT – "Assignment Document" shall refer to the document titled, "An Assignment of a Portion of Monterey Peninsula Water Management District Ordinance No. 39 Water Entitlement and Water Use Permit" issued and recorded by the Pebble Beach Company.***

5. **CONFIRMATION OF EXEMPTION** - *"Confirmation of Exemption" shall mean a written approval by staff of the Monterey Peninsula Water Management District based on a Pre-Application Request Form to Create/Establish a Water Distribution System which complies with Rule 20.*
6. **EXISTING STRUCTURE** - *"Existing Structure" shall mean any structure built and available for use or occupancy prior to December 11, 1987 within one hundred and twenty (120) days of the effective date of this ordinance.*
7. **FLAGRANT VIOLATION** - *"Flagrant Violation" means any willful or wanton disregard of the water conservation and/or rationing Rules and Regulations of the District which results in unreasonable waste, contamination, or pollution of District waters by any Extractor, User, or by the Owner/ or Operator of a Well, Water-Gathering Facility or Water Distribution System.*
8. **LOW-INCOME HOUSEHOLD** -- *~~"Very Low Income Household" and "Low Income Household"~~ shall mean those individuals or group of individuals living together as one household, **who earn up to 80% of the median income of individuals or families living in Monterey County.** whose combined gross annual income for each such group does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data. Permissible income limits shall not exceed the primary criteria to determine applicant eligibility for Section 8 HUD Public Housing programs. "The terms "Very Low Income" "Low Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets."*
9. **LOW-INCOME HOUSING** - *"Low-Income Housing" shall mean **housing that is affordable to households with incomes at or below 80 percent of the Monterey County median income adjusted for household size.** and refer to housing that is affordable to low income and very low income households. Such housing is affordable if the sales price is equal to or less than three times the maximum annual very low income household income; or if rented, if the annual rent is equal to or less than 25% of the maximum annual very low income household income.*

~~The term "Low Income Housing" shall only apply to a "Dwelling Unit" which is available for private occupancy, but for which ownership and/or occupancy is restricted by recorded covenant or other deed restriction. This covenant or restriction shall be enforceable by either the District or the public and shall limit use of all "Low Income Housing" so that only households of "Low Income" or less shall qualify to occupy these units by purchase, by rent, or by lease. This covenant or restriction shall comply with the standards set by the California Department of Housing and Community~~

~~Development (HCD) and the Monterey County Housing Authority for resale and occupancy of "Low Income" housing, and shall require that the District receive notice prior to the removal or modification of that deed restriction. The recorded covenant shall further provide notice to each subsequent owner that any change of water use from a low income housing use to any other residential or non-residential use shall constitute an intensification of use which shall require payment at the then present value of connection charges to the District both for the intensification of water use capacity and for the increment of water use which had originally been exempted from the full fee. The recorded covenant shall be in a form approved by the District General Manager. This covenant shall also require the use and maintenance of water conservation measures as determined by the District General Manager, which shall, among other things, maximize the use of low flow fixtures and drought resistant landscaping.~~

10. MODERATE INCOME HOUSEHOLD - "Moderate Income Household" shall mean those individuals or group of individuals living together as one household, *who earn more than 80% and up to 120% of the median income of individuals or families living in Monterey County.* ~~whose combined gross annual income does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data for a "Moderate Income Household" in the Seaside, Monterey, Salinas Standard Metropolitan Statistical Area Median Family Income as specified in the latest United States Census and projected to a year of sale by the United States Department of Housing and Urban Development. "Moderate Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.~~
11. MODERATE INCOME HOUSING – *"Moderate Income Housing" shall mean housing that is affordable to households with incomes above 80 percent and up to 120 percent of the Monterey County median income adjusted for household size.*
12. VERY LOW INCOME HOUSEHOLD — ~~"Very Low Income Household" and "Low Income Household" shall mean those individuals or group of individuals living together as one household, whose combined gross annual income for each such group does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data. Permissible income limits shall not exceed the primary criteria to determine applicant eligibility for Section 8 HUD Public Housing programs. The terms "Very Low Income" and "Low Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.~~

13. ***WATER USE PERMIT*** – ***“Water Use Permit” means a writing from MPWMD which evidences the dedication of the Water Entitlement as a present vested property right enuring to the use and benefit of one or more of the Benefited Properties. A Water Use Permit shall by non-discretionary ministerial action, cause the present Connection to or modification of the California American Water Distribution System for Benefited Properties upon designation of the location of use and upon payment of applicable Connection Charges and fees, and issuance of a Water Permit as provided in Rule 23.5.***

D. The definition of “Water Use Permit” in Rule 23.5 shall be amended to be identical to the new definition in Rule 11.

Section Four: **Amendment of Rule 20, Permits Required**

Rule 20 shall be revised as shown in bold italics (***bold italics***):

A. PERMIT TO CREATE/ESTABLISH A WATER DISTRIBUTION SYSTEM

Before any Person Creates or Establishes a Water Distribution System, such Person shall first obtain a written exemption or Permit from the District, ***execute and record a notice on the title of the property, and pay all applicable fees.*** Before any Pperson creates or establishes a Mobile Water Distribution System, such Person shall obtain a written Permit from the District.

Desalination, reclamation or importation facilities located within the District are not exempt because the Source of 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 Water Distribution System from the Monterey County Health Department, prior to March 12, 1980, or a Water Distribution System in existence prior to that date, shall be deemed to have been issued a 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 Well serving a Single-Parcel Connection System shall be deemed to have been issued a 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 Water-Gathering Facility of that system was registered with the District on or before October 15, 2001.

No Mobile Water Distribution System shall be issued a Permit under the provisions of the previous paragraph. Each such system shall be required to apply for and obtain a Permit in accord with Rules 21 and 22.

The Expansion Capacity Limit and System 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 CONNECT TO OR MODIFY A CONNECTION TO A WATER DISTRIBUTION SYSTEM

Before any Person connects to or modifies a water use Connection to a Water Distribution System *regulated by the District* or to any Mobile Water Distribution System, such Person shall obtain a written Permit from the District or the District's delegated agent, as described in District Rules 21, 23 and 24. The addition of any Connection and/or modification of an existing water Connection to any Water Distribution System permitted and regulated by the District shall require a Water Permit.

[No changes are proposed for the balance of Rule 20 B, C or D.]

Section Five: Amendment of Rule 21, Applications

Rule 21-B shall be revised as shown in bold italics (***bold italics***):

B. APPLICATION FOR PERMIT TO 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

application for a Water Permit to Connect to or Modify a Water Use Connection shall be deemed complete when the Applicant submits all of the following:

1. 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. *When the completed project has fewer fixture units than the number permitted (Residential Water Permits), or has a smaller Water Use Capacity than permitted (Non-Residential Water Permits), the Applicant shall not be required to secure the signature of the authorized official of the applicable Jurisdiction on the Water Release Form.* 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.

[No changes are proposed for the balance of Rule 21-B, C or D.]

The following text shall be added as Rule 21-E:

E. **APPLICATION FOR WATER USE PERMIT FOR "BENEFITED PROPERTIES" AS THAT TERM IS DEFINED IN RULE 23.5**

Each application for a Water Use Permit shall follow the process set forth in Rule 23.1. A proper Applicant for a Water Use Permit may be the property owner or any agent thereof. The application for a Water Use Permit shall be deemed complete when the Applicant submits all of the following:

1. *A completed Water Use Permit application,*
2. *A copy of the recorded Assignment Document, "An Assignment of a Portion of Monterey Peninsula Water Management District Ordinance No. 39 Water Entitlement and Water Use Permit" specific to the application Site.*
3. *Processing fees.*

Section Six: Amendment of Rule 22, Action on Application for Permit to Create/Establish a Water Distribution System

Rule 22 shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strikeout~~):

A. PROCESS

1. Review of Pre-Application Request Form for All Systems

The General Manager shall review each Pre-Application Request Form to Create/Establish a Water Distribution System. If the Pre-Application is determined to be complete pursuant to the Implementation Guidelines, the General Manager shall determine the proper Permit Review Level (i.e., Exempt, Level 1, Level 2, Level 3, or Level 4 as defined in Rule 11, Definitions). The General Manager shall notify the Applicant in writing of the Permit Review Level determination (to be confirmed by information in the formal Application Form), *the required recordation of notice on the title of the property*, applicable Permit application fee, and provide the proper written Application Form and associated materials pursuant to the Implementation Guidelines. If the Pre-Application Request Form is determined to be incomplete, the General Manager shall notify the Applicant concerning the missing or deficient information, and request the Applicant to submit that information.

2. Determination of Permit Review Level

Based on the information in the Pre-Application Request Form (as confirmed by the formal Application Form), the General Manager shall determine the Permit Review Level as follows, using ~~the attached~~ Table 22-A as a guide:

Exempt: A system meets ~~all of~~ the criteria identified in Rule 20-C-3.

Level 1 (Categorical) Permit: A system meets all of the following criteria: (a) Well site is located in the Carmel Valley Upland area as shown in maps provided in the Implementation Guidelines; (b) property is comprised of one or two Residential Parcels totaling less than 2.5 acres; (c) property is not within the ~~Cal-Am~~ **California American Water** Service Area as shown in maps provided in the Implementation Guidelines, or is not served by ~~Cal-Am~~ **California American Water** as a remote meter; (d) Well site is located more than 1,000 feet from any Sensitive Environmental Receptor as defined in Rule 11; (e) Well site is located more than 1,000 feet from any existing ~~w~~Well that is registered with the District and/or included in the District Well database at the time of the application; and (f) a review by District staff determines that the application falls within one of the classes listed for a CEQA categorical exemption as described in CEQA Guidelines Article 19, Categorical Exemptions (15300-15333). See also ~~the attached~~ Table 22-A.

Level 2 (Administrative) Permit: A system meets the criteria for a Level 2 Permit as shown in ~~the attached~~ Table 22-A.

Level 3 Permit (Hearing Officer Review): A system meets the criteria for a Level 3 Permit as shown in ~~the attached~~ Table 22-A.

Level 4 Permit (MPWMD Board Hearing): A system meets the criteria for a Level 4 Permit as shown in ~~the attached~~ Table 22-A.

Each application shall be reviewed pursuant to CEQA, except those ministerial actions determined to be exempt from the application of CEQA (Guidelines Section 15268).

3. Protocol for Exempt System

No Application Form or Permit processing is required for an exempt system. The General Manager shall provide a written Confirmation of Exemption to the Applicant in the form and manner prescribed in the Implementation Guidelines, including the applicable fee described in Rule 60. *A notice on the title of the property shall be recorded by the District prior to issuance of the written Confirmation of Exemption.* District action is ministerial and is exempt from the requirements of CEQA (Guidelines Section 15268). Notice of the staff action shall be provided to all MPWMD Board members.

[No changes are proposed for the balance of Section A, B or C.]

D. MANDATORY CONDITIONS OF APPROVAL

[There are no changes to Section D-1 a through k.]

- l. applicant shall pay to the District the invoiced cost for MPWMD staff time *and/or its agents* (pursuant to Rule 60) to process the permit, as documented in billing logs, before the permit is finalized;
- m. applicant shall sign an "Acceptance of Permit Conditions" form upon finalization of permit conditions, wherein the applicant states that he/she understands and accepts the conditions as a binding part of the permit

approval, and agrees to carry out the conditions in good faith; the permit is not valid until the signed form is received from the applicant;

- n. applicant shall execute a Notice and Deed Restriction prepared and recorded by the District regarding the limitation on water use as set forth in the conditions of approval prior to issuance of the final Permit;*
- n.o. permit shall state that the Permit is subject to Revocation in the event the Applicant does not comply with the provisions set forth in each condition in this Rule.*

[No changes are proposed for the balance of Section D, E, F or G.]

**TABLE 22-A
MATRIX OF PERMIT REVIEW LEVELS**

USE				SETTING						
				Carmel Valley Basin/Watershed		Sensitive Use Areas			Other/Non-California American Water Areas	Cal-Am California American Water Area
Project Type		Parcel Size (acres)	Estimated Water Use (AFY)	Uplands >1000' from well or SER*	Uplands <1000' from well or SER*	Laguna Seca Subarea	Seaside Coastal Subarea	C.V. Alluvium	Non-Cal-Am Misc. area; see Rule 20-C-3 for Exempt	Min. review if within "Main" Cal-Am California American Water Service Area (MPWRS)
A		B	C	D	E	F	G	H	I	J
1	1 Parcel - Residential	=1	=1	1	2	3	3	3***	Exempt	2
2	1 Parcel “	>1-2.5	>1-2.5	1	2	3	3	3***	Exempt	2
3	1 Parcel “	>2.5-10	>2.5-10	2	2	4	4	4***	2	2
4	1 Parcel “	>10	>10	2	3	4	4	4	3	3
5	2 Parcels - Residential	=1**	=1	1	2	3	3	3***	Exempt	2
6	2 Parcels “	>1-2.5	>1-2.5	1	2	3	3	3***	Exempt	2
7	2 Parcels “	>2.5-10	>2.5-10	2	3	4	4	4	2	2

USE				SETTING						
				Carmel Valley Basin/Watershed		Sensitive Use Areas			Other/Non- California American Water Areas	Cal-Am California American Water Area
8	2 Parcels "	>10	>10	2	3	4	4	4	3	3
9	3+ Parcels Residential	=1**	=1	3	3	3	3	4	3	2
10	3+ Parcels "	>1-2.5	>1-2.5	3	3	3	3	4	3	2
11	3+ Parcels "	>2.5-10	>2.5-10	4	4	3	3	4	3	2
12	3+ Parcels "	>10	>10	4	4	4	4	4	4	4
13	New Subdivision	=2.5**	=2.5	3	3	4	4	4	4	3
14	New Subdivision	>2.5	>2.5	4	4	4	4	4	4	4
15	Non-Residential	--	=1	3	3	3	3	3	3	3
16	Non-Residential	--	>1-10	4	4	3	3	4	3	4
17	Non-Residential	--	>10	4	4	4	4	4	4	4

Review Level Numbering:

Exempt = No WDS Permit needed; ministerial action exempt from CEQA (Guidelines **Section 15268**)

1= Categorical Permit (discretionary and subject to staff review of CEQA categorical exemption, Guidelines Section 15300 et seq)

2= Administrative Permit (discretionary and subject to CEQA review, Findings etc)

3= Public Hearing by Hearing Officer (discretionary and subject to CEQA review, Findings etc)

4= Public Hearing by Board of Directors (discretionary and subject to CEQA review, Findings etc)

* "SER" = Sensitive Environmental Receptor defined by Rule 11 (CV alluvium, CR tributary, Seaside Basin, Pacific Ocean mean high tide)

** Acreages for 2+ Parcel systems are analyzed based on total acreage for all Parcels

*** If applicant submits either a SWRCB "Domestic Registration" or adequate documentation of riparian rights, then level 2 applies.

Section Seven: **Amendment of Rule 23, Action on Application for a Water Permit to Connect To or Modify an Existing Water Distribution System**

Rule 23-A-1-o shall be revised as shown in bold italics (***bold italics***) and strikeout (~~strikeout~~):

- 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. ***When the completed project has fewer fixture units than the number permitted (Residential Water Permits), or has a smaller Water Use Capacity than permitted (Non-Residential Water Permits), the Applicant shall not be required to secure the signature of the authorized official of the applicable Jurisdiction on the Water Release Form.***

Section Eight: **Addition of Rule 23.1, Action on Application for a Water Use Permit on a Benefited Property**

- A. The Application and Process for Water Use Permits issued after May 27, 2004 shall be controlled by this Rule read in conjunction with Rule 23.5.
- B. The following text shall be added as Rule 23.1 -- Action on Application for a Water Use Permit on a Benefited Property:

RULE 23.1 -- ACTION ON APPLICATION FOR A WATER USE PERMIT ON A BENEFITED PROPERTY

A. PROCESS

1. Action on Application for a Water Use Permit

- a. ***The General Manager shall review the application and determine whether the Applicant has met the criteria for a Water Use 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 ensure that the Assessor's Parcel Number of the Benefited Property shown on the Assignment Document matches the***

APN(s) shown on the spreadsheet of water purchasers provided to the District by the Pebble Beach Company.

- (1) When the APN(s) shown on the Assignment Document does not match the spreadsheet of water purchasers, the General Manager shall notify the Pebble Beach Company of the discrepancy.*
 - (2) When the APN shown on the Assignment Document is determined to be an error, the Applicant shall submit a corrected and recorded Assignment Document prior to issuance of a Water Use Permit.*
 - (3) When the APN shown on the Assignment Document is determined to be correct and the spreadsheet is in error, the spreadsheet of water purchasers shall be revised by the Pebble Beach Company to reflect the correct APN.*
- c. The General Manager shall prepare and execute a Water Use Permit for the APN(s) shown on the Assignment Document.*
 - d. The original Water Use Permit shall be mailed to the Applicant.*
 - e. The District shall retain one copy of the Water Use Permit and the copy of the Assignment Document.*

B. AMENDMENT OF WATER USE PERMIT

- 1. A Water Use Permit may be amended to reflect a Change of Ownership of a Parcel.*
- 2. A Water Use Permit may be amended to reflect assignment of water previously held collectively by two or more Parcels under a Water Use Permit. A written request for assignment shall be submitted to the District, along with processing fees and ownership information sufficient to prepare a new Water Use Permit.*
- 3. A Water Use Permit may be amended to reflect newly-assigned Assessor's Parcel Numbers when a Benefited Property is subdivided into two or more Parcels. A written request for amendment shall be submitted to the District, along with processing fees, evidence of the subdivision approval by Monterey County and ownership information sufficient to prepare a new Water Use Permit.*

Section Nine: Amendment of Rule 24.5, Connections for Affordable Housing

Rule 24.5, Connections for Affordable Housing, shall be revised as shown in bold italics (***bold italics***) and ~~strikeout (strikeout)~~:

RULE 24.5 – CONNECTIONS ***CHARGE EXEMPTIONS*** FOR AFFORDABLE HOUSING

A. DEFINITIONS AFFECTING AFFORDABLE HOUSING

For the purpose of Rule 24.5, the following definitions shall apply:

1. ~~Definition of “Moderate Income Household”. The term “Moderate Income Household” shall mean those individuals or group of individuals living together as one household, whose combined gross annual income does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data for a “Moderate Income Household” in the Seaside, Monterey, Salinas Standard Metropolitan Statistical Area Median Family Income as specified in the latest United States Census and projected to a year of sale by the United States Department of Housing and Urban Development. “Moderate Income” shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.~~
2. ~~Definition of “Affordable Housing”. The term “Affordable Housing” shall mean and refer to housing that is affordable to moderate income households. Such housing is affordable if the sales price is equal to or less than three times the maximum annual moderate income household income; or if rented, if the annual rent is equal to or less than 25% of the maximum annual moderate income household income. “Moderate Income” shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.~~

~~The term “Affordable Housing” shall only apply to a “Dwelling Unit” which is available for private occupancy, but for which ownership and/or occupancy is restricted by recorded covenant or other deed restriction. This covenant or restriction shall be enforceable by either the District or the public and shall limit use of all “Affordable Housing” so that only households of “Moderate~~

Income” or less shall qualify to occupy these units by purchase, by rent, or by lease. This covenant or restriction shall comply with the standards set by the California Department of Housing and Community Development (HCD) and the Monterey County Housing Authority for resale and occupancy of “Low-Income” and “Moderate Income” housing, and shall require that the District receive notice prior to the removal or modification of that deed restriction. The recorded covenant shall further provide notice to each subsequent owner that any change of water use from an affordable housing use to any other residential or Non-Residential use shall constitute an intensification of use which shall require payment at the then present value of Connection Charges to the District both for the intensification of water use capacity and for the increment of water use which had originally been exempted from the full fee. The recorded covenant and shall be in a form approved by the District General Manager. This covenant shall also require the use and maintenance of water conservation measures as determined by the District General Manager, which shall, among other things, maximize the use of low flow fixtures and drought resistant landscaping.

3. ~~Definition of “Very Low Income Household” and “Low Income Household”.~~
The terms “Very Low Income Household” and “Low Income Household” shall mean those individuals or group of individuals living together as one household, whose combined gross annual income for each such group does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data. Permissible income limits shall not exceed the primary criteria to determine applicant eligibility for Section 8 HUD Public Housing programs. The terms “Very Low Income” and “Low Income” shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.
4. ~~Definition of “Low Income Housing”.~~ The term “Low Income Housing” shall mean and refer to housing that is affordable to low income and very low income households. Such housing is affordable if the sales price is equal to or less than three times the maximum annual very low income household income; or if rented, if the annual rent is equal to or less than 25% of the maximum annual very low income household income.

~~The term "Low Income Housing" shall only apply to a "Dwelling Unit" which is available for private occupancy, but for which ownership and/or occupancy is restricted by recorded covenant or other deed restriction. This covenant or restriction shall be enforceable by either the District or the public and shall limit use of all "Low Income Housing" so that only households of "Low Income" or less shall qualify to occupy these units by purchase, by rent, or by lease. This covenant or restriction shall comply with the standards set by the California Department of Housing and Community Development (HCD) and the Monterey County Housing Authority for resale and occupancy of "Low Income" housing, and shall require that the District receive notice prior to the removal or modification of that deed restriction. The recorded covenant shall further provide notice to each subsequent owner that any change of water use from a low income housing use to any other residential or Non-Residential use shall constitute an intensification of use which shall require payment at the then present value of Connection Charges to the District both for the intensification of water use capacity and for the increment of water use which had originally been exempted from the full fee. The recorded covenant shall be in a form approved by the District General Manager. This covenant shall also require the use and maintenance of water conservation measures as determined by the District General Manager, which shall, among other things, maximize the use of low flow fixtures and drought resistant landscaping.~~

5. ~~Definition of "Dwelling Unit". The term "Dwelling Unit" shall mean single or multiple residences suitable for single household occupancy but shall not refer to non-permanent student or transient housing, the occupancy of which is projected to average 24 months or less.~~

BA. CONNECTION CHARGE AFFORDABLE PARTIAL FEE EXEMPTION FOR MODERATE INCOME HOUSING

1. ~~Partial Fee Exemption for Affordable Housing. Each Residential Connection which supplies water to a "Dwelling Unit" that is required by deed restriction to continuously meeting the District's definition of "Affordable Moderate Income Housing" shall be exempt from fifty percent (50%) of the Connection Charge required pursuant to Rule 24. This partial fee exemption shall only apply to a Dwelling Unit available for private occupancy, and where ownership and/or occupancy is restricted by deed restrictions recorded by both the Jurisdiction and~~

~~the District. during the period that "Dwelling Unit" continuously meets the definition of "Affordable Housing". Any change of water use from an "Affordable Housing" use to any other residential or non-residential use (even if the change is limited to removal or modification of the required deed restriction), or any transfer to another site, shall constitute an intensification of use, and shall require the imposition of the then current connection charge both for the intensification and for that entire increment of water use capacity which had been exempted from the original connection charge. All other permit conditions, including processing fees and surcharges, shall apply to these connections.~~

B. AFFORDABLE FEE EXEMPTION FOR LOW-INCOME HOUSING EXEMPTION

~~1. Fee Exemption for Low Income Housing. Each Residential Connection which supplies water to a "Dwelling Unit" that is required by deed restriction to continuously meeting the District's definition of "Low-Income Housing" shall be exempt from all Connection Charges required pursuant to Rule 24 during the period that "Dwelling unit" continuously meets the definition of "Low Income Housing". This fee exemption shall only apply to a Dwelling Unit available for private occupancy, and where ownership and/or occupancy is restricted by deed restrictions recorded by both the Jurisdiction and the District. Transfer of water use to any other site shall be prohibited. Any change of water use from a "Low-Income Housing" use to any other residential or Non-Residential use (even if the change is limited to removal or modification of the required deed restriction) shall constitute an intensification of use, and shall require the imposition of the then-current Connection Charge both for the intensification and for that entire increment of water use capacity which had been exempted from the original Connection Charge. All other permit conditions, including processing fees and surcharges, shall apply to these connections.~~

C. CONDITIONS FOR APPROVAL FOR AFFORDABLE HOUSING CONNECTION CHARGE EXEMPTIONS

- 1. All Connection Charge adjustments granted pursuant to Rule 24.5 shall be enforced by deed restriction on the title of the property.***
 - a. Moderate Income Housing. This deed restriction shall be enforceable by either the District or the public and shall limit use of all Moderate Income Housing so that only households of "Moderate Income" or less shall qualify to occupy these units by purchase, by rent, or by lease.***

The recorded deed restriction shall further provide notice to each subsequent owner that any change from Moderate Income Housing use to any other Residential or Non-Residential use shall constitute an Intensification of Use which shall require payment at the then-present value of Connection Charges to the District both for any Intensified Water Use and for the increment of Water Use Capacity which had originally been exempted from the full Connection Charge. The recorded deed restriction shall be in a form approved by the District's Board of Directors.

b. Low-Income Housing. This deed restriction shall be enforceable by either the District or the public and shall limit use of all "Low-Income Housing" so that only households of "Low Income" or less shall qualify to occupy these units by purchase, by rent, or by lease. The recorded deed restriction shall further provide notice to each subsequent owner that any change from a Low-Income Housing use to any other Residential or Non-Residential use shall constitute an Intensification of Use which shall require payment at the then-present value of Connection Charges to the District both for any Intensified Water Use and for the increment of Water Use Capacity which had originally been exempted from the full Connection Charge. The recorded deed restriction shall be in a form approved by the District's Board of Directors.

- 2. The Jurisdiction and the property owner shall notify the District of any change in the Affordable Housing status of the property.*
- 3. A change of status from Low-Income Housing to Moderate Income Housing shall constitute an Intensification of Use, and shall require the imposition of the then-current Connection Charge both for the increment of Water Use Capacity which had been exempted from the original Connection Charge and for any increase in Water Use Capacity.*
- 4. Any change of status from Affordable Housing shall constitute an Intensification of Use, and shall require the imposition of the then-current Connection Charge both for the entire increment of Water Use Capacity which had been exempted from the original Connection Charge and for any increase in Water Use Capacity.*

5. *All other Water Permit conditions, including fees set forth in Rule 60, shall apply to these Connections.*

Section Ten: **Amendment of Rule 25.5, Water Credits**

Rule 25.5-F-3-b shall be revised as shown in bold italics (*bold italics*):

- b. Credit shall not be given for any reduction which occurs as the result of the removal of Landscaping installed without a Water Permit *or installed pursuant to a Water Permit for New Construction*. An exception to this limitation shall be made for *Non-Residential* Landscaping that was specifically identified, quantified, and permitted by the District. *Any Water Use Credit granted under this subdivision shall be determined using the Estimated Applied Water for the increment of Landscaping being permanently abandoned.*

Section Eleven: **Amendment of Rule 60, Fees & Charges**

A. Rule 60, Fees & Charges, shall be revised as shown in bold italics (*bold italics*) and ~~strikeout~~ (~~strikeout~~):

RULE 60 - FEES &AND CHARGES

A. **Purpose.** MPWMD shall set administrative fees and charges to meet ongoing operating expenses, including but not limited to, employee wage rates and fringe benefits, and costs of supplies, equipment, materials and services. These fees and charges shall bear a positive correlation to the cost of providing each service, or activity by District staff and/or its agents. Fees and charges not time-based shall remain unchanged unless amended by future action of the Board.

B. **Fees &and Charges Categories.** MPWMD shall set administrative fees and charges for each of the following services or activities: Action on ~~a~~Any Appeal/*Variance*, Action on ~~a~~Any Permit, ~~Action on any Variance, Compliance Activity, Conservation or Rationing Activity, Data Search, Document Preparation, Processing, Document Review or Retrieval, Enforcement Activity, Research, Staff Consultation, Expanded Water Conservation and Standby Rationing Plan, Publication Fees, Rationing Liens, Rebate Processing, River Work Permits, Site Inspection Activities, Water Entitlement~~ (~~Water~~

Use Permit Fees), Water Use Credits and/or On-Site Water Credit Activity, Water Credit Transfer Activity, Water Waste Fees, and Well Monitoring Activities.

C. **Table of Fees & Charges.** MPWMD shall maintain a Fees ~~&~~and Charges Table providing for all current administrative fees and charges for each Fee ~~&~~and Charge Category set by Paragraph B of this Rule. The Fees and Charges Table, referenced in this Rule and incorporated into this paragraph as if set forth in full, shall be amended from time to time by a Resolution duly adopted by the MPWMD Board of Directors. When hours of effort are referenced on the Fees ~~&~~and Charges Table, the General Manager shall cause each member of staff, and each consultant, to maintain a log of all effort expended for that matter. Effort shall be charged in increments of *one-half* (1/2) hour.

D. **Connection Charges.** This Rule shall not amend or modify *the* Connection Charges *or the Water Supply Cost Component* as set by Rule 24. ~~and the process by which administrative fees and charges, and the Fees and Charges Table referenced in Paragraph C, above, shall not apply to the Water Supply Cost Component set in Rule 24 C.~~

[No changes are proposed for the balance of Rule 60.]

B. The term "and" shall replace any ampersand (&) found within Rule 60.

Section Twelve: General Replacement of Terms

Except where the context otherwise indicates, the following shall be replaced throughout the District's Rules and Regulations:

- A. Throughout the Rules and Regulations of the District, the term "Cal-Am" shall be replaced with "California American Water".
- B. Throughout the Rules and Regulations of the District, the terms "Dedicated Landscape Water Meter" and "Dedicated Landscape Meter" shall be replaced with "Dedicated Irrigation Meter."
- C. The term "Flagrant Occurrence" shall be replaced with the term "Flagrant Violation."

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 Fourteen: **Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on the 30th day following adoption.

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 Edwards, and second by Director Potter, the foregoing ordinance is adopted upon this 18th day of June 2007, by the following vote:


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

NAYS: Director Lehman

ABSENT: Director Knight

I, David A. Berger, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the 18th day of June 2007.

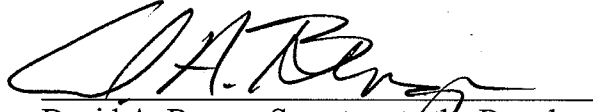
Witness my hand and seal of the Board of Directors this 10th day of August 2007.


David A. Berger, Secretary to the Board

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COPY CERTIFICATION

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 Ordinance No. 128 duly adopted on the 18th day of June 2007.


David A. Berger, Secretary to the Board

8/10/07
Date