

Adopted on September 20, 2010 -- Effective on December 1, 2010

**FINAL
ORDINANCE NO. 145**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
CLARIFYING AND AMENDING REGULATIONS PERTAINING TO
PERMITS, CONSERVATION AND ENFORCEMENT**

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 Water Management District approved a toilet replacement Rebate Program when it adopted the Action Plan for Water Supply Alternatives in February 1996. The Action Plan addressed the need for water supply projects to meet the water supply needs of the Monterey Peninsula following voter rejection of District financing for the New Los Padres Water Supply Project in November 1995.
4. California State Water Resource Control Board (SWRCB) Order No. WR 95-10, issued in July 1995, ruled that California American Water did not have a legal right to take approximately 69 percent of the water supplied to California American Water users at that time. The SWRCB has set specific goals to reduce water diversions from the Carmel River Basin.
5. Under SWRCB Order No. WR 95-10, California American Water was ordered to reduce its historical diversion from the Carmel River Basin by 20 percent beginning with Water Year 1997 and in each subsequent year.
6. California American Water v. City of Seaside, et al, Case No. M66343, resulted in a decision which determined the initial Operating Safe Yield for the Seaside Basin is 5,600 Acre-Feet (Coastal Subarea is 4,611 Acre-Feet and 989 Acre-Feet for the Laguna Seca Subarea).

“Operating Safe Yield” is the maximum amount of Groundwater resulting from Natural Replenishment which can be produced from each Subarea for a finite period of years as these terms are defined in the decision. Water conservation is a component to achieving Operating Safe Yield.

7. This ordinance adds two new definitions that restate former definitions deleted by Ordinance No. 141. Counsel requested that these terms be reinstated because the terms are used in older deed restrictions.
8. This ordinance adds four new definitions that are directly from the State Model Efficient Landscape Ordinance adopted by the Board in November 2009. These additions to the District’s Rules clarify language related to outdoor water use calculations in Rule 24.
9. This ordinance amends definitions for “Abandoned Well” and “Inactive Well” to be consistent with the language currently in laws promulgated by the State of California and Monterey County. The new language was taken from the Monterey County Health Department (MCHD) ordinance. A new definition for “Fractured Rock” was added, in consultation and coordination with MCHD.
10. This ordinance adds a definition for Rainwater Harvesting Capacity to explain how water catchment calculations are to be conducted.
11. This ordinance amends ten existing definitions including:
 - a. Clarifications to four definitions to assist with field inspections (Bar Sink, Entertainment Sink, Kitchen Sink, and Vegetable Sink).
 - b. Maximum Applied Water Allowance is amended to be consistent with the State Model Water Efficient Landscape Ordinance adopted by the Board in November 2009.
 - c. Non-Essential Water Use is amended to include charity car washes.
 - d. The measurement of a Water Unit in the California American Water system shall be 74.8 gallons, consistent with the 2008 approved General Rate Case.
 - e. Water Waste is amended to include washing livestock without a Positive Shut-Off Nozzle. This generally pertains to large livestock locations such as the fairgrounds and equestrian centers.
12. This ordinance adds new text that all fractured rock Wells and all Wells providing Potable supply must have a current (within three years) Pumping Test performed pursuant to MPWMD protocol. This amendment shortens the timeline for replacement of an Inactive Well from 10 to three years.
13. This ordinance formalizes that MPWMD will not approve a Water Permit for a new Connection to the California American Water system resulting from the inability of a permitted Water Distribution System to deliver adequate water quality or quantity to Parcels within its service area until there is full compliance by California American Water with State

Water Resources Control Board Order No. WR 95-10 (as amended); California American Water compliance with the March 2006 Final Decision of the Seaside Groundwater Basin Adjudication (as amended); and water is available in the respective Jurisdiction's Allocation for release to the Parcel(s);

14. This ordinance adds a condition to new Water Distribution System Permits allowing MPWMD staff to have access to Water-Gathering Facilities for data collection and inspection purposes after sufficient notice to the Owner or Operator.
15. This ordinance revises Rule 22-D-4 to clarify the timeline for completion of an approved Water Distribution System Permit.
16. This ordinance clarifies Rule 20-B-6 to incorporate current practices that exempt unenclosed structures and temporary structures from Water Permit requirements.
17. This ordinance also amends Rule 20-B-6 to include a requirement for a Water Permit for use of a Mobile Water Distribution System (i.e., trucked water).
18. This ordinance clarifies that the District will stamp the Landscaping plans submitted for a Water Permit and that an electronic copy will be maintained by the District for future reference. This is consistent with the State Model Water Efficient Landscape Ordinance.
19. This ordinance adds a requirement for a deed restriction allowing access to water records at any property that applies for a Water Permit that requires at least one deed restriction. This will allow the District to access consumption data to validate its permit process and to verify conservation savings. This involves approximately 15 minutes of staff time in addition to legal review. The applicant will pay approximately \$65 for the public access deed restrictions costs as part of the permit fees.
20. This ordinance clarifies that the system utilizing water from a single California American Water connection at the boundary of the California American Water Company service area and the Sleepy Hollow Subdivision in Carmel Valley is also known as the Sleepy Hollow Mutual Potable Water Distribution System.
21. This ordinance adds hose bibs to the list of exempt residential water fixtures shown in Rule 24-A-2. Outdoor water use is not determined by the number of hose bibs.
22. This ordinance amends the exterior water use calculations for Residential and Non-Residential uses to be consistent with the State Model Water Efficient Landscape Ordinance. Modifications can be found at Rules 24-A-5-a and b.
23. This ordinance amends Rule 24-A-5-a and b to use the Estimated Total Water Use (ETWU) as the appropriate outdoor water demand estimate. The ETWU is a more accurate reflection of water use and is required under the State Model Water Efficient Landscape Ordinance.
24. This ordinance implements a minimum outdoor factor of 0.01 acre-foot annually to account for non-irrigation uses such as car washing, window washing, pet watering, etc.

25. This ordinance adds a reduced water demand calculation when rainwater storage is a component of an Irrigation System. The calculation used to determine the reduced demand is conservative and uses dry year data to ensure that water will be available to meet the storage calculation in most years.
26. This ordinance updates Table 3: Connection Charge History to show the Connection Charges for 2007-2011.
27. This ordinance modifies the requirement for third party review of a water savings analysis (Rule 25.5-F-4-d-(2)) to occur only when staff is unable to verify the water savings. At such time, the District will contract for a third party review and will pass the cost to the applicant.
28. This ordinance makes minor clarifications to the Enforcement Regulation at Rule 22-E, Rule 22-F and at Rule 116 where new subparagraph numbering (A and B) have been added.
29. This ordinance replaces the term "laundries" at Rule 143-F with "Clothes Washers" for purposes of achieving Non-Residential Retrofits to High Efficiency Clothes Washers by December 31, 2012.
30. This ordinance was reviewed and supported by the Water Demand Committee on July 21, 2010.
31. This ordinance is subject to the California Environmental Quality Act (CEQA) and an Initial Study and Notice of Intent to Adopt a Negative Declaration was prepared and filed with the Monterey County Clerk on July 23, 2010. A Negative Declaration will be considered by the Board upon second reading and consideration of adoption.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the **2010 Permit, Conservation, and Enforcement Regulation Amendment Ordinance** of the Monterey Peninsula Water Management District.

Section Two: **Statement of Purpose**

The Monterey Peninsula Water Management District enacts this ordinance to clarify and amend rules found in the permits, conservation, and enforcement regulations of the District. This ordinance also recognizes the reduction in outdoor water demand resulting from the installation of rainwater harvesting systems and modifies the District's metering requirement for fire sprinkler systems.

Section Three: **Definitions**

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. New and revised text is shown in bold italics (***bold italics***) and deleted text is shown in strikeout (~~strikeout~~). Numbering is provided for ease of review.

1. ABANDONED WELL – An “Abandoned Well” is a Well that has produced no (zero) water for one year or more, ***unless the owner demonstrates the intent to use the well again for supplying water by meeting*** and ~~has not met~~ the requirements to be considered an “Inactive Well” in compliance with Monterey County regulations, ***and California state law (California Well Standards)***.
2. BAR SINK - “Bar Sink” shall mean a secondary water basin, ~~15” x 13” or smaller~~ ***not used as the primary Kitchen Sink***. The term “Bar Sink” shall have the same meaning as “Entertainment Sink” and “Vegetable Sink.”
3. ENTERTAINMENT SINK - “Entertainment Sink” shall mean a secondary water basin, ~~15” x 13” or smaller~~ ***not used as the primary Kitchen Sink***. The term “Entertainment Sink” shall have the same meaning as “Bar Sink” and “Vegetable Sink.”
4. ***ESTIMATED TOTAL WATER USE (ETWU) – “Estimated Total Water Use” is determined based upon the area of Landscaping and the types of plant material used in the Landscaping (as determined by Water Use Classification of Landscape Species (WUCOLS) classifications). The sum of the ETWU calculated for all hydrozones shall not exceed MAWA.***
5. ***EVAPOTRANSPIRATION ADJUSTMENT FACTOR or ET ADJUSTMENT FACTOR -- “Evapotranspiration Adjustment Factor” or “ET Adjustment Factor” (ETAF) shall mean a factor of 0.7, that, when applied to reference Evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the Landscape. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is (0.7) = (0.5/0.71). ETAF for a special Landscape Area as defined in the Model Water Efficient Landscape Ordinance shall not exceed 1.0. ETAF for existing non-rehabilitated Landscapes is 0.8.***
6. ***FRACTURED ROCK – “Fractured Rock” (sometimes referred to as “fractured bedrock,” “hard rock” or “consolidated rock”) refers to water-bearing formations with generally limited production and reliability as compared to the less consolidated mixture of sand, gravel, silt and clay that characterize fluvial (river-related) strata. Groundwater occurrence and movement within Fractured Rock formations are primarily controlled by the “secondary porosity” associated with the fracture openings, as compared to the “primary porosity” associated with the pore spaces between grains in the granular matrix of fluvial sediments. In the context of Water Distribution Systems regulated by MPWMD, “Fractured Rock” refers to non-fluvial source water located outside of the Carmel Valley Alluvial Aquifer or the Seaside Groundwater Basin. For applications where the water source is unclear, the General Manager shall determine whether the water***

source is Fractured Rock, based on Well drilling logs and other available hydrogeologic data pertinent to the application.

7. **INACTIVE WELL** – An “Inactive Well” is a Well that has produced no (zero) water for one year or more, ~~but has not been abandoned as set forth in~~ *and the owner has demonstrated the intent to use the Well again for supplying water by meeting the requirements to be considered an “Inactive Well” in compliance with Monterey County regulations, and California state law (California Well Standards).* In *addition*, in order for a well to be considered “inactive” by MPWMD, the annual production report must be submitted confirming the inactive status, and a proper amended Well registration form showing the inactive status must be filed with the District.
8. **KITCHEN SINK** - “Kitchen Sink” shall mean a ~~single~~ *primary* large water basin or multiple interconnected basins located in a room or part of a room that contains a built-in cooking appliance(s).
9. **LANDSCAPE AREA** -- “Landscape Area” *means all the planting areas, turf areas, and water features in a Landscape plan subject to the Maximum Applied Water Allowance calculation. The Landscape Area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing Native Vegetation).*
10. **MAXIMUM APPLIED WATER ALLOWANCE** – “Maximum Applied Water Allowance” shall mean the calculated ~~“not to exceed” limit of annual applied water excluding rainfall for a mature Landscaped area. Calculations recommended by the Irrigation Association shall be used to determine the maximum usage permitted for a Site~~ *upper limit of annual applied water for the established Landscape Area. It is based upon the area’s reference Evapotranspiration, the ET Adjustment Factor, and the size of the Landscape Area. The Maximum Applied Water Allowance shall be calculated using the equation: $MAWA = (ET_o) (0.62) [(0.7 \times LA) + (0.3 \times SLA)]$. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance. Special Landscape Areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with Recycled Water are subject to the MAWA with an ET Adjustment Factor not to exceed 1.0.*
11. **MODEL WATER EFFICIENT LANDSCAPE ORDINANCE** – “Model Water Efficient Landscape Ordinance shall refer to the California Code of Regulations, Title 23. Waters, Division 2. Department of Water Resources, Chapter 2.7. Model Water Efficient Landscape Ordinance.
12. **NON-ESSENTIAL WATER USE** - “Non-Essential Water Use” shall mean the indiscriminate or excessive dissipation of water which is unproductive, or does not reasonably sustain life or economic benefits. Non-Essential Water Use includes but is not limited to the following:

1. Serving drinking water to any customer, unless expressly requested, by a restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for sale.
 2. Operation of fountains, ponds, lakes or other ornamental use of Potable water without recycling.
 3. Unreasonable or excessive use of Potable water for dust control or earth compaction without prior written approval of the General Manager where non-potable water or other alternatives are available or satisfactory.
 4. Use of unmetered fire hydrant water by individuals other than for fire suppression or utility system maintenance purposes, except upon prior approval of the General Manager.
 5. Failure to meet MPWMD Regulation XIV retrofit requirements for an existing business after having been given a reasonable amount of time to comply.
 6. Draining and refilling of swimming pools or spas except (a) to prevent or correct structural damage or to comply with public health regulations, or (b) upon prior approval of the General Manager.
 7. *Charity car washes.*
13. ***RAINWATER HARVESTING CAPACITY*** – *“Rainwater Harvesting Capacity” shall mean the volume of storage (expressed in fixture units (Residential) or Acre-Feet (Non-Residential)) that contains useable rainwater captured from a rooftop(s) at a Site during a “below average” Water Year. The useable rainwater supply shall be calculated as 60 percent of the average annual rainfall for the Site as determined by MPWMD with a capture rate of 0.623 gallons of rainwater per square foot of catchment area per inch of rainfall times a runoff coefficient of 0.851. In no circumstance shall the Rainwater Harvesting Capacity exceed the amount of useable rainwater supply.*
14. ***ULTRA-LOW CONSUMPTION DISHWASHER*** - *“Ultra-Low Consumption Dishwasher” shall mean a Dishwasher designed to use a maximum of 7.66 gallons during every complete cycle.*
15. ***ULTRA-LOW CONSUMPTION WASHING MACHINE*** - *“Ultra-Low Consumption Washing Machine” shall mean a Clothes Washer designed to use a maximum of 28 gallons during every complete cycle.*

1 The coefficient is an efficiency factor based on roof material that ranges from 0.75-0.95.

16. VEGETABLE SINK - "Vegetable Sink" shall mean a secondary water basin, ~~15"~~
~~13" or smaller~~ **not used as the primary Kitchen Sink.** The term "Vegetable Sink"
shall have the same meaning as "Bar Sink" and "Entertainment Sink."
17. WATER UNIT - "Water Unit" shall mean an increment of water equal to 748
gallons, ***except in the California American Water Water Distribution System. In
the California American Water Water Distribution System, a Water Unit shall
equal 74.8 gallons of water.***
18. WATER WASTE - "Water Waste" shall mean the indiscriminate, unreasonable, or
excessive running or dissipation of water. Water Waste shall include, but not be
limited, to the following:
1. Waste caused by correctable leaks, breaks or malfunctions. This loss
of Potable water may be cited as Water Waste after a reasonable
period of time has passed in which the leak or malfunction could have
been corrected. Exceptions may be granted by the General Manager
for corrections, which are not feasible or practical.
 2. Use of Potable water for washing buildings, structures, driveways,
patios, parking lots, tennis courts, or other hard surfaced areas, except
in cases where health or safety are at risk.
 3. Indiscriminate or excessive water use which allows excess to run to
waste.
 4. Use of Potable water to irrigate turf, lawns, gardens or ornamental
Landscaping between 9:00 a.m. and 5:00 p.m. by means other than
drip irrigation, or hand watering without quick acting Positive Action
Shut-Off Nozzles. (Exceptions shall be made by the General Manager
for professional gardeners where there is no ability to ~~not~~ **avoid**
watering between 9:00 a.m. to 5:00 p.m.).
 5. Individual private washing of cars with a hose except with the use of
a Positive Action Shut-Off Nozzle. Use of water for washing
commercial aircraft, cars, buses, boats, trailers or other commercial
vehicles at any time, except at commercial or fleet vehicle or boat
washing facilities operated at a fixed location where equipment-using
water is properly maintained to avoid wasteful use.
 6. Transportation of water from the Monterey Peninsula Water Resource
System without prior written authorization from the MPWMD shall
be deemed ~~Water~~ ~~Waste~~. Emergency or health related situations
are exempt from this provision in accordance with Rule 169 (Water
Rationing Variance).

7. Operation of a commercial car wash without recycling at least 50 percent of the Potable water used per cycle.
8. Use of water for more than minimal Landscaping, as defined in the Landscaping regulations of the Jurisdiction or as described in Article 10.8 of the California Government Code.
9. Use of Potable water for street cleaning.
10. Outdoor watering in violation of Landscape irrigation restrictions required by *excess of a Water Budget during Stages 1-2-4 Water Conservation when a Water Budget is required pursuant to Rule 172.*
11. Failure to maintain water use within a mandatory Landscape Water Budget.
12. Misrepresentation of the number of Persons permanently residing on a property where water is supplied by a Water Distribution System or by a private Well.
13. Water use in excess of a Water Ration.
14. *Washing of livestock with a hose except with the use of a Positive Action Shut-Off Nozzle.*

The following activities shall not be cited as Water Waste:

1. Flow resulting from fire fighting or essential inspection of fire hydrants;
2. Water applied to abate spills of flammable or otherwise hazardous materials, where water application is the appropriate methodology;
3. Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available;
4. Storm run-off;
5. Flow from fire training activities during Stage 1 Water Conservation through Stage 3 Water Conservation;
6. Reasonable quantities of water applied as dust control as required by the Monterey Bay Unified Air Pollution Control District, except when prohibited by Regulation XV.

Section Four: **Amendment of Rule 20-B, Permits to Connect to or Modify a Connection to a Water Distribution System**

Rule 20-B shall be amended as shown in bold italics (***bold italics***) and strikeout (~~striketthrough~~).

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.

The following actions require a Water Permit:

1. Any change in use, size, location, or relocation of a Connection or Water-Measuring Device which may allow an Intensification of Use or increased water consumption.
2. Each use of an On-Site credit or Water Use Credit.
3. Any modification to, or relocation of, Residential water fixtures.
4. Any Landscaping changes ***resulting in an Intensification of Use*** 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), ***except when the Change of Use or expansion modifies (1) an unenclosed structure that has no plumbing; or (2) a temporary structure (i.e., a structure without permanent occupancy and without a permanent foundation and that has no plumbing).***
6. Installing new water fixtures (i.e., other than replacing existing water fixtures) in a Residential use.
7. ***Use of water from a Mobile Water Distribution System.***

Section Five: **Amendment of Rule 20-C, Exemptions for Water Distribution System Permit**

Rule 20-C shall be amended as shown in bold italics (***bold italics***) and strikeout (~~striketthrough~~).

C. EXEMPTIONS FOR WATER DISTRIBUTION SYSTEM PERMIT

For Wells located within Fractured Rock and non-Fractured Rock Wells intended for Potable supply for Residential or Non-Residential use: Exemptions for a Water Distribution System Permit shall only be considered following receipt of a Well Capacity (Aquifer Pumping) Test conducted in compliance with the protocol described in Rule 21-A-7. Well Capacity Tests shall be performed within three years from the date of receipt of the Pre-Application form requesting an exemption.

An MPWMD Water Distribution System Permit is not required for the following situations:

1. For properties that lie outside the District boundary, where both: (a) the property to be served is wholly outside of the boundaries of the Monterey Peninsula Water Management District; and (b) the water source is also located outside of the District boundary.
2. For properties that straddle the District boundary, where both: (a) the portion of the property served by the Water Distribution System is outside of the District boundary; and (b) the Source of Supply is outside of the District boundary.
3. A system that meets all of the following criteria: (a) ~~w~~Well site is located outside of the Carmel River Basin and the Seaside Groundwater Basin as shown in maps provided in the Implementation Guidelines; (b) ~~property~~ Site is comprised of one or two Residential Parcels totaling less than 2.5 acres in size; (c) ~~property~~ Site is located outside of the California American Water Service Area as shown in maps provided in the Implementation Guidelines or is not served by California American Water by a remote ~~meter~~Connection; (d) ~~w~~Well site is located more than 1,000 feet from any Sensitive Environmental Receptor as defined in Rule 11; and (e) ~~w~~Well site is located more than 1,000 feet from an existing Well that is registered with the District and/or included in the District ~~w~~Well database at the time of the application. The Carmel River Basin and Seaside Groundwater Basin are defined in Rule 11, Definitions.
4. For a Single-Parcel Connection System located within the Carmel River Basin that meets all of the following three criteria: (a) the ~~w~~Well location lies outside of the mapped area 1,000 feet from the Carmel Valley Alluvial Aquifer or 1,000 feet from Tularcitos, Hitchcock Canyon, Garzas, Robinson Canyon or Potrero Creeks; (b) a valid ~~w~~Well construction permit by the Monterey County Health Department was issued prior to January 15, 2003; and (c) the Applicant makes the Well active, registers the Well with MPWMD, meters the Well, has the Well inspected by MPWMD, and receives an approved MPWMD Water Meter Installation Inspection form issued on or before June 30, 2003.

5. To reactivate, refurbish or replace existing ~~w~~Wells that are registered with the District, as defined in Rule 11. To qualify for this exemption, the Reactivated, Refurbished or Replacement Well must have substantially the same purpose and Capacity of the structure replaced. The replacement structure must be consistent with other MPWMD Rules and Regulations. This exemption from the MPWMD permitting process does not affect in any way the Applicant's obligation to comply with permit requirements by other regional, state or federal agencies. This exemption shall not apply to an Abandoned Well, or replacement *or refurbishment* of an Abandoned Well, or Wells that have been Inactive for more than ~~10~~ *three years from the date of receipt of the Pre-Application Request Form described in Rule 21-A-1.*
6. For On-Site Cisterns that serve existing single-~~p~~Parcel ~~e~~Connections, (i.e. Residential situations where rainwater is captured for On-Site ~~L~~Landscape irrigation use).
7. For deliveries of water by commercial companies in volumes less than or equal to 55 gallons per container.
8. For an existing or future new Irrigation System, owned and operated by MPWMD, which exists solely to irrigate riparian vegetation in the Carmel River Riparian Corridor as part of the MPWMD Water Allocation Program EIR Mitigation Program.
9. For an existing, expanded or new non-MPWMD Irrigation System that is served by a Well completed prior to January 15, 2003, with the purpose to irrigate riparian vegetation in the Carmel River Riparian Corridor pursuant to conditions of approval of an MPWMD River Work Permit, a contract with MPWMD, or any other irrigation use approved by the District. This exemption does not apply to Irrigation Systems that are served by Wells completed on or after January 15, 2003.
10. For a Water Distribution System in existence prior to April 18, 2001, that is comprised of multiple, contiguous Parcels owned by the same owner. Such a system may be referred to as "pre-existing Multiple-Parcel Connection System." However, any amendments to such a Water Distribution System on or after April 18, 2001, must be permitted by the District pursuant to Rule 22.
11. For a Water Distribution System that serves water to Parcels within the Former Fort Ord Lands within MPWMD, but that does not derive water from the Seaside Groundwater Basin or the Carmel River Basin, including the Carmel Valley Alluvial Aquifer.
12. Any exemption pursuant to this Rule 20-C, however, shall not be construed to exempt the facility or its Owner or Operator from any other requirement set forth in these MPWMD Rules and Regulations, or any other regulatory or legal requirement.

Section Six:

Amendment of Rule 22-D, Mandatory Conditions of Approval

Rule 22-D shall be amended as shown in bold italics (***bold italics***) and strikeout (~~striketthrough~~).

D. MANDATORY CONDITIONS OF APPROVAL

1. When the Board or hearing officer approves the Permit, it shall establish for each system: (i) an Expansion Capacity Limit, which sets the total number of Connections which can be served; (ii) a System Capacity Limit, which sets the maximum annual production in Acre-Feet per year; and (iii) a Municipal Unit (Jurisdiction) Allocation. In addition to the following mandatory conditions, the Board or hearing officer may impose other conditions in granting the Permit:
 - a. Permit shall designate geographic boundary of Water Distribution System Service Area, including Assessor's Parcel Numbers;
 - b. Permit shall identify authorized use of Water Distribution System (e.g., Potable, Sub-potable, Residential, Commercial, and/or other types of use);
 - c. Permit shall identify approvals by other agencies that shall be obtained before Water Distribution System Permit is finalized or vested;
 - d. Applicant shall execute an indemnification agreement that holds the District harmless, and promises to defend the District from any claims, demands, or expenses of any nature or kind arising from or in any way related to the adequacy of the water supply of the system;
 - e. Applicant shall comply with all District Rules relating to water Well registration, metering and reporting;
 - f. Applicant shall comply with all District water conservation regulations; this may include requirements for installation of low-flow fixtures or drought tolerant Landscaping;
 - g. Applicant shall comply with District regulations that govern water meter Connections, including payment of applicable fees;
 - h. Permit shall identify whether interties to other systems are allowed and shall identify restrictions or prohibitions on such interties, including devices to prevent cross-contamination of systems. ***MPWMD shall not approve any Water Permit for a new Connection to the California American Water system due to the inability of a permitted Water Distribution System to deliver adequate water quality or quantity to Parcels within its Service Area***

until there is full compliance by California American Water with State Water Resources Control Board Order No. WR 95-10 (as amended); California American Water compliance with the March 2006 Final Decision of the Seaside Groundwater Basin Adjudication (as amended); and water is available in the respective Jurisdiction's Allocation for release to the Parcel(s);

- i. Permit shall identify which mitigation measures, if any, are required to address potential adverse environmental impacts associated with the proposed Water Distribution System, and specify funding mechanism, if applicable;
 - j. Applicant shall provide copy of agreement(s) to serve water to recipient Parcels, if a Multiple-Parcel Connection System;
 - k. Applicant shall receive a District Permit prior to Intensifying or Expanding the approved Water Distribution System;
 - 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;
 - o. ***Upon notice to the Water Distribution System Owner or Operator in writing, e-mail or by telephone, reasonable access to the Site shall be given to MPWMD staff or its designated representative to inspect and document Water-Gathering Facilities and Water-Measuring Devices, obtain hydrogeologic data, and take readings from Water-Measuring Devices.***
 - op. Permit shall state that Permit is subject to revocation in the event the Applicant does not comply with the provisions set forth in each condition in this Rule.
2. Every Applicant, as a condition to holding a Permit pursuant to this Rule, shall report annually in the form and manner prescribed by the District: (i) the

quantity of water delivered from each Source of Supply, (ii) the total water produced, (iii) the maximum number of Connections in the system, (iv) the number of new Connections and disconnections, (v) provide a map or maps of the Service Area, and (vi) list the identity and address of each Responsible Party as of September 30th of the previous year.

3. As a condition precedent to use or enjoyment of any Permit pursuant to this Rule, each Applicant shall be required to first obtain and comply with any required approval from the local Jurisdiction in which the property is located; and if applicable, obtain and comply with a certificate from the California Public Utilities Commission, or a coastal development permit or other approvals pursuant to the California Coastal Act. Failure to comply with this prerequisite shall provide cause for Revocation of any Permit issued pursuant to this Rule.
4. For ~~p~~**Permits** issued after January 15, 2003, construction tasks for facilities authorized in the MPWMD ~~w~~**Water** ~~d~~**Distribution** ~~S~~**system** ~~P~~**permit** (*e.g., Well, pipelines, storage tanks and water treatment*) shall be initiated within one year (365 days except 366 days for leap years) from the date the ~~p~~**Permit** is issued. The ~~p~~**Permit** shall expire if no action is taken within that year. ~~Permitted~~ **C**onstruction of **permitted Water-Gathering Facilities** tasks shall be completed and ~~w~~**Water** ~~d~~**Distribution** ~~S~~**system** operation shall commence within two years from the date the ~~p~~**Permit** is issued. The permittee may apply in writing to the General Manager for a 180-day extension to the project initiation deadline and/or the system operations commencement deadline, to be approved at the discretion of the General Manager.

Section Seven: **Amendment of Rule 23-A-1, Process**

Rule 23-A-1 shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~).

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 *and the Landscape plans* with the District's Water Permit Approval Stamp and shall sign the stamp and include the Water Permit number and date issued. *An electronic copy of the Landscaping plan shall be retained by the District.*
- 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. 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.

- 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.

Section Eight: **Amendment of Rule 23-B, Mandatory Conditions of Approval**

Rule 23-B shall be amended as shown in bold italics (***bold italics***) and strikeout (~~striketrough~~).

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.
 - e. ***All Water Permits requiring deed restrictions shall also include a Notice and Deed Restriction titled "Provide Public Access to Water Use Data."***
2. Construction of a New Structure.
 - a. All new water use permitted by the District shall install a separate water meter to each User.
 - b. All Non-Residential New Structures receiving a Water Permit after January 1, 2009, that include irrigated areas beyond ten (10) feet of

any building shall utilize a separate water meter to measure all exterior water uses.

- c. All New Structures receiving a Water Permit after January 1, 2009, shall have separate water meters *supply lines after the water meter for to supply* fire suppression systems *service and domestic service. This configuration shall facilitate installation of a Flow Restrictor in the domestic service without interfering with the fire suppression service.*
 - d. *All Water Permits requiring deed restrictions shall also include a Notice and Deed Restriction titled "Provide Public Access to Water Use Data."*
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 (*also known as the Sleepy Hollow Mutual Potable Water Distribution System*) by a Master Meter at the subdivision boundary.
 - c. Both interior and exterior uses shall be metered by individual water meters.

Section Nine: **Amendment of Rule 24-A, Residential Calculation of Water Use Capacity**

Rule 24-A shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~). Rule 24, Tables 1, 2 and 4 are not shown in this ordinance and shall be amended by Resolution of the Board of Directors.

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.

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, *hose bibs*, 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 not required to prepare a Landscape plan by either the Jurisdiction or the District. For all new Connections on Sites of less than 10,000 square feet *not required to prepare a Landscape plan by either the Jurisdiction or the District*, the Exterior Water Demand Calculation shall be 50 percent of the interior fixture unit value.
- b. Sites of 10,000 Square Feet or Greater required to prepare a Landscape plan by either the Jurisdiction or the District. For all new Connections on Sites of 10,000 square feet or greater *required to prepare a Landscaping plan by either the Jurisdiction or the District*, the Exterior Water Demand Calculation shall be the *Estimated Total Water Use plus 0.01 Acre-Foot. Any modification*

to the Landscaping that results in an Intensification of Use shall require a Water Permit. 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:

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

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

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 Estimated Total Water Use plus 0.01 Acre-Foot. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit.* 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 *may* result in payment collection of additional Connection Charges and debits to a Jurisdiction's Allocation or Water Entitlement.

d. Sites utilizing rainwater storage as a component in an Irrigation System. For all new Connections on Sites where rainwater storage is included as a source of water supply for an Irrigation System, the Estimated Total Water Use as determined by the Landscaping plan shall be reduced by the available Rainwater Harvesting Capacity. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit. An additional 0.01 Acre-Foot of water from the Water Distribution System shall be added for outdoor water uses other than irrigation.

Sites utilizing rainwater storage as a component in an Irrigation System shall have Landscape water use restricted by 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

failure to maintain and utilize the rainwater storage component of the Irrigation System shall constitute an Intensification of Use which may result in collection of additional Connection Charges and debits to a Jurisdiction's Allocation or Water Entitlement and/or other enforcement actions.

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.

Section Ten: **Amendment of Rule 24-B, Non-Residential Calculation of Water Use Capacity**

Rule 24-B shall be amended as shown in bold italics (***bold italics***) and strikeout (~~striketrough~~).

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.

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 *Estimated Total Water Use*.

For all new Connections on Sites where rainwater storage is included as a source of water supply for an Irrigation System, the Estimated Total Water Use as determined by the Landscaping plan shall be reduced by the available Rainwater Harvesting Capacity. Sites utilizing rainwater storage as a component in an Irrigation System shall have Landscape water use restricted by 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 failure to maintain and utilize the rainwater storage component of the Irrigation System shall constitute an Intensification of Use which may result in collection of additional Connection Charges and debits to a Jurisdiction's Allocation or Water Entitlement and/or other enforcement actions. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit.

~~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:~~

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

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.

Section Eleven: **Amendment of Rule 24-C, Water Supply Cost Component**

Rule 24-C shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strike through~~).

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

YEAR	CONNECTION CHARGE
1985	\$10,623.20
1985-86	\$11,133.00
1986-87	\$11,433.59
1987-88	\$11,890.93
1988-89	\$12,295.22
1989-90	\$12,983.75
1990-91	\$13,529.07
1991-92	\$14,056.70
1992-93	\$14,661.00
1993-94	\$15,202.00
1994-95	\$15,325.00
1995-96	\$15,692.00
1996-97	\$15,960.00
1997-98	\$16,551.00
1998-99	\$17,048.00

1999-2000	\$17,832.00
2000-01	\$18,492.00
2001-02	\$19,565.00
2002-03	\$19,976.00
2003-04	\$20,415.00
2004-05	\$20,517.00
2005-06	\$20,948.00
2006-07	\$21,618.00
<i>2007-08</i>	<i>\$22,331.00</i>
<i>2008-09</i>	<i>\$22,979.00</i>
<i>2009-10</i>	<i>\$23,163.00</i>
<i>2010-11</i>	<i>\$23,567.00</i>

Section Twelve: **Amendment of Rule 25.5-F, Water Use Credits and On Site Water Credits**

Rule 25.5-F shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strike through~~).

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 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.
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.
 - 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, t~~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, *When District staff is not able to verify the estimated water savings*, the Applicant shall *may be required to obtain reimburse the District for costs to 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, T~~he 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.

Section Thirteen: Amendment of Rule 110-E, General Enforcement

Rule 110-E shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strike through~~).

E. General Enforcement

Any Person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of these Rules and Regulations; or, any contractor who installs or removes plumbing fixtures contrary to the provisions of these Rules and Regulations with the intent to defeat the purposes of these regulations, shall be guilty of a misdemeanor punishable as an infraction as provided by Section 256 of the Monterey Peninsula Water Management District Law, Statutes of 1981, Chapter 986. Violations carry a maximum penalty of \$250 for each offense. Each separate day or portion thereof during which any violation occurs or continues without a good-faith effort by the Responsible Party to correct the violation, shall be deemed to constitute a separate offense, and upon conviction thereof, shall be separately punishable.

Section Fourteen: Amendment of Rule 110-F, Civil Nuisance

Rule 110-F shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strike through~~).

F. Civil ***Public*** Nuisance

1. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, maintained, sold, or the use of which is changed, contrary to the provisions of these Rules and Regulations, and/or any use of any land, building, or premises, established, conducted, operated, or maintained contrary to the provisions of these Rules and Regulations, shall be, and the same is hereby declared to be a violation of these Rules and Regulations and a ~~p~~***Public*** ~~n~~Nuisance.
2. The District may summarily abate the ~~p~~***Public*** ~~n~~Nuisance, and the Board of Directors or District Attorney may cause or maintain a civil suit or other action, to enjoin or abate the nuisance.
3. Each day any violation of this regulation continues shall be regarded as a new and separate offense. The remedies provided in this regulation shall be cumulative and not exclusive.
4. Should any Person, firm, or corporation violate the terms of this ~~r~~***Regulation***, and any action is authorized either by the Board of Directors, or District Attorney, or is in fact commenced, no other action shall be taken on any application filed by or on behalf of said Person, firm, or corporation until the action has been concluded or resolved.

Section Fifteen: **Amendment of Rule 116, Failure to Comply With an Administrative Order or Cease & Desist Order**

Rule 116 shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~).

RULE 116 FAILURE TO COMPLY WITH AN ADMINISTRATIVE ORDER OR CEASE & DESIST ORDER

- A.** Failure to pay the assessed administrative penalties and/or administrative costs specified in the Administrative Order, or failure to pay additional administrative costs incurred due to non-compliance with an Administrative Order or Cease & Desist Order itself, shall be enforced by the General Manager as:
1. A Personal obligation of the violator; and/or
 2. If the violation is in connection with real property, a lien upon the real property. The lien shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full.
- B.** Whenever the General Manager determines that a violation of any District Rule or Regulation has occurred on a Site and has not been corrected within thirty (30) days of notification of such violation, the General Manager may record a Notice of Non-Compliance on the title of the property with the office of the County Recorder and may initiate enforcement action as authorized in ~~Regulation XI~~ ***this Regulation***. The General Manager shall cause a Notice of Compliance to be recorded at such time as the property owner has established full compliance with the provisions of these Rules and Regulations.

Section Sixteen: **Amendment of Rule 143-F, Water Efficiency Standards for Existing Non-Residential Uses**

Rule 143-F shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~).

- F.** All Non-Residential ~~laundries~~ ***Clothes Washers*** shall ~~operate exclusively with~~ ***meet the definition of*** High Efficiency Clothes Washers rated with a Water Factor of 5.0 or below by December 31, 2012. There shall be an exception to this Rule when the existing appliance was purchased between January 1, 2006, and January 1, 2010, and rates a Water Factor of 5.1-6.0: These appliances must comply with this provision by January 1, 2020.

Section Seventeen: **Publication and Application**

The provisions of this ordinance shall cause the amendment and republication of Rules 11, 20, 22, 23, 24, 25.5, 110, 116, and 143 to the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Eighteen: Effective Date

This ordinance shall be given effect at 12:01 a.m. on December 1, 2010.

Section Nineteen: Sunset

This ordinance shall not have a sunset date.

Section Twenty: Severability

If any subdivision, 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, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director Edwards, and second by Director Lehman, the foregoing ordinance is adopted upon this 20th day of September, 2010, by the following vote:

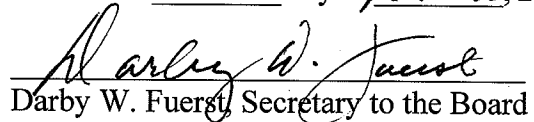
AYES: Directors Edwards, Lehman, Doyle, Markey, Pendergrass and Potter

NAYS: None

ABSENT: Director Brower

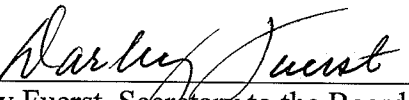
I, Darby W. Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the 20th day of September, 2010.

Witness my hand and seal of the Board of Directors this 5th day of November, 2010.


Darby W. Fuerst, Secretary to the Board

COPY CERTIFICATION

I, Darby Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of Ordinance No. 145 duly adopted on the 20th of September, 2010.



Darby Fuerst, Secretary to the Board

11/5/2010
Date