

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING ITS RULES AND REGULATIONS RE
THE CARMEL RIVER MANAGEMENT PROGRAM

WHEREAS, the Board of Directors of the Monterey Peninsula Water Management District finds as follows:

1. The California Legislature has charged the Monterey Peninsula Water Management District with the integrated management of water resources and problems affecting the Monterey Peninsula and Carmel River basin.

2. The Monterey Peninsula Water Management District desires to protect flows of the Carmel River, and its surrounding environs.

3. The Monterey Peninsula Water Management District has formed an improvement zone (MPWMD Zone No. 3) which will facilitate management of the Carmel River, and perform works and projects for the benefit of the zone.

4. The Monterey Peninsula Water Management District has promulgated its Carmel River Management Plan which will protect the water course, the watershed, public ways, life and property in the zone; promote the restoration of river banks and scenic resources; reduce environmental degradation; and enhance the fish and wildlife habitat.

5. The Monterey Peninsula Water Management District desires to make the rules and regulations governing the operation of the Carmel River Management Program more responsive to the needs of the program.

NOW, THEREFORE, BE IT ORDAINED that the amendments shown as underscored on the attached "Exhibit A" and incorporated herein by reference, are adopted by the Board of Directors of the Monterey Peninsula Water Management District.

On motion of Director McClintock, and second by Director Williams, the foregoing ordinance is duly adopted this 11th day of March, 1985 by the following votes:

- AYES: Directors Townsend, Heuer, Strasser Kauffman, Bernardi, McClintock, DeBerry and Williams
- NAYES: None
- ABSENT: None

I, Gladys McKillop, Secretary of the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a full, true and correct copy of a ordinance duly adopted on the 11th day of March, 1985.

Witness by hand and seal of the Board of Directors this 13th day of March, 1985.



Gladys McKillop, District Secretary

ORDINANCE NO. 22

The following additions, deletions, and modifications are made to the Rules and Regulations of the Monterey Peninsula Water Management District:

Section One:

Rule 71 shall be amended to read:

Rule 71. Assessment Appeals. Any determination concerning the calculation of a benefit assessment, or concerning the calculation of an assessment credit may be appealed to the Board of Directors. Such an appeal shall be initiated in writing, within fourteen (14) days after the property owner has received notice pursuant to Rule 120 (B)(4) of the final assessment. Such appeal shall specify in writing the grounds upon which it is taken, reference the provision of these Rules and Regulations violated, and shall be accompanied by the fee prescribed in Rule 63. shall be submitted in typewritten form, shall be accompanied by the fee prescribed in Rule 63, and shall be initiated within fourteen (14) days after the property owner has received notice pursuant to Rule 120 B(4) of the final assessment. Within thirty (30) days of receipt of such appeal, the General Manager shall set a hearing on the appeal before the District Board and notify the appellant and/or applicant in writing of the time and place of the hearing at least ten (10) days prior to the hearing and give public notice of the hearing date. An appeal may be filed by the applicant, the General Manager, or any other person. At said hearing the appellant and/or applicant and other persons may present evidence concerning the appeal. The Carmel River Advisory Committee may forward its recommendation regarding this matter. The Board may deny, approve or continue any appeal. Should the Board grant an appeal which seeks an assessment credit for prior works, the Board shall adopt findings consistent with Rule 121 B(3). The General Manager shall notify the appellant and/or applicant within ten (10) days in writing by mail of the Board action taken. Notice of the action taken shall be deemed to have been given when the written notification has been deposited in the mail, postpaid, addressed to the address on the application. Upon approval of an appeal by the Board of Directors, the fee submitted with the appeal shall be returned to the appellant and/or applicant within thirty (30) days of this action.

Section Two:

Rule 120 shall be amended to read:

Rule 120. Carmel River Advisory Committee.

A. Committee Purpose. The Carmel River Advisory Committee is a standing committee of the District. The Committee shall advise

the Board of Directors with regard to management of the Carmel River and to any matter referred to this committee.

B. Committee Organization.

1. The Carmel River Advisory Committee shall be comprised of ~~seven (7)~~ nine (9) members. Each Director of the District shall appoint one member to this Advisory Committee. The remaining two (2) committee positions shall be comprised of a representative from Monterey County Flood Control and Water Conservation District, and a representative from the California Department of Fish and Game. Each agency shall designate its respective representative. Appointed committee members shall serve a term of two (2) years, which term shall expire on June 30, provided, however that the first seven (7) appointees shall, by lot, determine that four (4) members shall serve for one (1) year, and three (3) members shall serve for two (2) years. Appointment to any vacancy shall be made by the Board of Directors for the remainder of the unfulfilled term. A vacancy shall be created by resignation or in the event a Committee member fails to attend three (3) consecutive regular meetings without good cause as determined by the Board of Directors. Nomination to fill any vacancy or to reappoint any committee member shall be made by the Director's seat which exercised the original appointment to that position. Notwithstanding any other provision, this Committee shall cease to function on June 30, 1993.

2. All meetings of the Committee shall comply with the Ralph M. Brown Act. At the first meeting held in each fiscal year, the Committee shall elect a chairperson and vice-chairperson to preside at Committee meetings. The committee may adopt rules governing the conduct of its meetings.

3. Board appointed committee members shall be required to reside within the boundaries of the Monterey Peninsula Water Management District. Any committee members currently sitting in a position on the committee shall be allowed to complete their term of duty, regardless of their place of residence.

Section Three:

Rule 121 shall be amended to read:

Rule 121 Carmel River Management Funds.

A. Benefit Assessments. Benefit assessments which derive from property fronting the Carmel River pursuant to the Carmel River Management Zone shall be administered pursuant to this regulation. The maximum assessment within Zone #3 shall be \$0.35 per lineal foot of river bank, provided, however, that such maximum assessment shall increase or decrease each year by the CPI inflator as determined by the County of Monterey for budget setting purposes. Real property which fronts the Carmel River within Zone #3, and which lies in an Area of Reduced Benefit as

that term is defined by these Rules and Regulations, shall not be assessed in an amount exceeding \$0.0875 per lineal foot of river bank, provided however that said maximum assessment shall increase or decrease each year by the CPI inflator as used by the County of Monterey for budget setting purposes. The total assessment within the zone shall not exceed \$90,000 per year. The actual amount to be assessed shall be \$0.32 per lineal foot during the first year, and \$0.0875 per lineal foot for property within the Area of Reduced Benefit, and shall be determined by the process set forth below in Rule 121(B) for each subsequent year. Notwithstanding any other provision of these Rules and Regulations, no assessment credit shall be allowed for the first year of zone assessment and no assessment credit shall be allowed at any time in the Area of Reduced Benefit. No assessment shall be made pursuant to this rule on or after July 1, 1993.

B. Calculation of Assessments.

1. A review of all assessments pursuant to this Rule shall be made annually. Such review shall be conducted by the District Board with the advice of the Carmel River Advisory Committee pursuant to the process set forth below to determine the assessment needs of Zone #3, to determine the assessment needs of the Area of Reduced Benefit, to determine the assessable river frontage, the existence of a constructive Riverbank Assessment Line, and to calculate an actual assessment for each parcel within the zone. The Carmel River Advisory committee shall review any all applications for prior work or private works credit and tender its written recommendation findings before action on that application is taken by the Board.

2. In order to determine the actual assessment per parcel, the Board shall first conduct a public hearing concerning current river management needs. Thereafter, the Board will calculate the length of river bank assessment line subject to each assessment. The Board will then, upon the advice of the Carmel River Advisory Committee, determine the amount of credit which shall be allowed in accord with subparagraph B3 below. Finally, the Board will determine the assessment for each parcel, utilizing the findings of the Carmel River Advisory Committee (CRAC) concerning the determination of credits allowed in accord with subparagraph B3 and B4 below.

3. Assessment credits may be allowed by the Board Carmel River Advisory Committee for Zone #3 assessments provided, however, that no assessment credit shall be allowed in the Area of Reduced Benefit. Upon application of an affected property owner, credit may be allowed for any work, improvement, or other activity undertaken by a property owner to protect, restore or stabilize that portion of the riverbed or riverbank which lies on the applicant's property provided these meet the standards to be imposed pursuant to Rules 123, ~~125~~ and ~~126~~ 126 and 127 upon works undertaken by the District or by permit within the zone. The Board Carmel River Advisory Committee may grant credit for prior works and private works equal to 100% of the cost of prior

or private works provided those works comply with the technical standards as described pursuant to this regulation. No credit shall be allowed for the first year of zone assessment. For each subsequent year, no credit shall be allowed which exceeds 50% of the proposed assessment for the particular parcel whose owner seeks the prior or private works credit. Unused portions of the prior works credit shall be carried forward for use as credit in later years. The Board Carmel River Advisory Committee shall prepare written findings upon advice of the Carmel River Advisory Committee regarding each application for prior works credit on the following concerns:

- a) the nature of the prior work or private works
- b) the extent to which the prior work or private work meets District standards
- c) the direct cost to the owner, or predecessor in interest, of the prior work or private work
- d) the source and character of funds used to finance the prior or private work
- e) the amount of credit previously granted for the prior work or private work
- f) whether the property owner has granted an easement to the District for access to the Riparian corridor.

Assessment credits shall be mandatory in those circumstances where the works comply with all standards set forth in this regulation and no question exists regarding the cost of such prior or private works, private (non-public) funds were used to finance such works, and the property has been subordinated to an easement in favor of the District in order to grant access to the riparian corridor for the purpose of the District undertaking specific river bed and bank works, or to acquire rights of way for District irrigation systems. Where all such conditions are not met, the grant, partial grant or denial of the credit shall lie in the discretion of the Board Carmel River Advisory Committee based on the facts presented regarding the application. Prior to the determination of benefit assessment credit findings, the Carmel River Advisory Committee shall conduct a public hearing concerning the granting of credits. All applicants shall be notified in writing of the time and place of the hearing at least ten (10) days prior to the hearing. Public notice of the hearing date shall also be made. The grant, partial grant, or denial of a credit application may be appealed by the property owner, the District, or any third party for rehearing before the Board of Directors pursuant to Rule 71, Assessment Appeals.

4. In the case where a property owner provides financial assistance to his/her neighbor for the installation of works to protect the neighbor's property, and the property owner's own property is adequately protected and maintained in the opinion of

the District Engineer, a credit shall be allowed by the Board to be offset against the benefit assessment charged to the property owner. All the criteria of the preceding section shall be met in full compliance as set forth in the paragraph.

4 5. Within fourteen (14) days following the conclusion of the hearing held pursuant to this Rule, each property owner within Zone #3 shall be given written notice of the actual amount to be assessed against his property, including the amount of credit as determined by the Board Carmel River Advisory Committee.

B C. Expenditures. River Management User fees, Zone #3 assessments, District General Funds, grant funding, and donations received pursuant to these Rules and Regulations may be expended by the District for river management activities as set forth in Rule 123, and further provided that each expenditure shall be accounted for in consonance with Rule 122 and the general accounting principles to which the District adheres.

Section Four:

1. Change all references to Rule 126 to read Rule 127, in Rule 123.
2. Change all references to Rule 125 to read Rule 126, and all references to Rule 126 to read Rule 127, in Rule 126.
3. Change all references to Rule 126 to read Rule 127, in Rule 127.

Rule 128 129 Effective Dates

Notwithstanding any other provision of the Rules and Regulations, Rules 124, 125, 126 126, 127 and 60, subparagraph 60(5), 60(6), 60(7) shall not be operative or have any force or effect of law until the Board of Directors of the MPWMD adopts a Resolution which acknowledges that the Monterey County Board of Supervisors Planning Commission has amended Chapter 20.108 (title 20-124) of the County Code to avoid granted a Master Special Permit in accord with Chapter 20.108 (title 20-124) of the County Code. The granting of such a permit will avoid the overlapping regulatory jurisdiction with this regulation and the County Code. and The resolution adopted by the Board of Directors of the MPWMD shall states the effective date for any or all of these these rules.