

**ORDINANCE NO. 30****AN ORDINANCE OF  
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
ESTABLISHING WATER CONSERVATION STANDARDS  
IN ALL AREAS OF THE DISTRICT****FINDINGS**

1. In support of its adoption of this ordinance, the Board of Directors of the Monterey Peninsula Water Management District (the Water Management District) approves each finding set forth in this part.
2. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the water resources of the Monterey Peninsula. The California Legislature has declared a shortage of water resources and a need for conserving the supplies of water for this community.
3. 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.
4. The Water Management District is planning a major water supply project to augment the available water resources of the community, and although this project will be reviewed as an advisory measure on the November 1987 ballot, water will not be available from this project until at least 1992.
5. The total water resource presently available for consumption by the California-American Water Company (Cal-Am), excepting

non-revenue deliveries such as fire flows, is 18,600 acre feet per year. The February 1987 sales report of Cal-Am shows annual water sales at 16,879.86 acre feet, or 90% of all water resources available for sale by Cal-Am.

6. Greater per capita water consumption increases the entire community's vulnerability to a severe drought.
7. Increases in per capita water consumption place greater demands upon the riparian ecosystem to its detriment.
8. Once water demand reaches the available supply, a moratorium on new water connections will be imposed which would create social and economic hardships for the community.
9. Per capita water consumption on the Monterey Peninsula has steadily increased since the California drought of 1976-1977.
10. Water conservation has proven to be a successful mechanism to reduce per capita water consumption.
11. The Water Management District has adopted a regional water conservation goal to reduce present water consumption demand by 9% (1,620 acre feet per year) by 1990 to stretch the limited available resource pending development of increased water supplies. Conservation efforts will provide an interim water supply, reduce drought vulnerability, ease environmental impacts of water production, and reduce sewer flows.
12. The reduction of water demand, and corresponding reduction in sewer flows which shall result from this ordinance is required to meet the health, safety, and societal needs of

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this region.

13. No municipal unit allocation shall be changed by reason of conservation practices set forth by this ordinance. It is the intent of the District that each city and the county shall determine how to use the water saved through conservation.

**NOW, THEREFORE, BE IT ORDAINED,**

**SECTION I. PURPOSE**

It is the purpose and intent of this ordinance to reduce use of potable water within the Monterey Peninsula Water Management District boundaries.

**SECTION II. DEFINITIONS**

The following definitions are application to this ordinance:

A. "Change of Ownership" means a transfer of a present interest in real property, and a transfer of the right to beneficial use thereof, the value of which is substantially equal to the proportion of the ownership interest transferred. Every transfer of property shall qualify as a "change of ownership," except transfers of title which are exempt from property tax re-assessment in accord with criteria used by the Monterey County Tax Assessor's Office in the implementation of California Constitution, Article XIII A, (i.e., transfers of title from one spouse to another) whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an

owner, property settlement, or any other means. "Change of Ownership" affected other than by a contract of sale shall be deemed to occur at the time of actual transfer of title. A "Change of Ownership" resulting from a contract of sale or similar instrument shall be so regarded only if escrow is opened or a contract of sale is executed, whichever occurs last, on or after the effective date of this ordinance.

B. "Change of Use" means, in the case of commercial, industrial or public authority structures, a change in the use to which the structure was previously devoted, to a substantially different use, as uses are categorized by Table No. 2 of Rule 24 D.

C. "Existing Structure" means any structure built and available for use or occupancy within one hundred and twenty (120) days of the effective date of this ordinance.

D. "Low Water-Use Plumbing Fixtures" means any toilet using a maximum of 1.5 gallons per flush, and shower heads designed to emit a maximum of 2.5 gallons per minute (gpm) of water.

E. "New Construction" means any construction of a previously non-existent structure requiring a discretionary or ministerial permit issued after the effective date of this ordinance. "New Construction" shall include additions, modifications, or structural improvements which add square footage to floor space of existing structures.

### **SECTION III.**

### **PLUMBING FIXTURES FOR NEW CONSTRUCTION**

All new construction, as defined herein, shall be exclusively equipped with low water-use plumbing fixtures as defined by this ordinance, and shall further use washbasin faucet aerators with a maximum flow rate of 2.5 gallons per minute wherever feasible. These fixtures shall be installed and maintained, and shall not be replaced with fixtures which allow greater water use.

#### **SECTION IV. RETROFIT OF EXISTING COMMERCIAL USES**

All non-residential water users within the District, including existing hotels, motels, other commercial, and industrial uses, within one hundred and twenty (120) days following the effective date of this ordinance, shall retrofit all shower and washbasin faucet plumbing fixtures which are installed, but which do not meet low water-use plumbing fixture standards, with shower heads with a maximum flow capacity of 2.5 gallons per minute (gpm), and washbasin faucets with aerators which limit the flow rate to a maximum of 2.5 gpm. Further, all toilets which exceed 3.4 gallons per flush shall be installed with toilet water-use reduction devices capable of reducing flow by at least 1.0 gallon per flush. The General Manager shall defer the retrofit requirement of this section for any plumbing fixture for which present technology is not available to cause the required flow reduction, such as in flushometer-style toilet fixtures, or where retrofitting is not otherwise feasible. When feasible, retrofit shall be required at the time technology becomes available.

**SECTION V. RETROFIT UPON CHANGE OF OWNERSHIP OR USE****A. MANDATORY RETROFIT UPON CHANGE OF OWNERSHIP OR USE**

All plumbing fixtures in existing structures, including residential, commercial, industrial, and public authority structures shall, at the time of change of ownership or change of use, be retrofitted, if not already so, exclusively with low water-use plumbing fixtures as defined by this ordinance. These fixtures shall be installed and maintained, and shall not be replaced with fixtures which allow greater water use.

**B. MANDATORY RETROFIT UPON EXPANSION OF USE**

All residential, commercial, public authority, and industrial reconstruction, remodels or additions that add any bathroom(s), and/or increase floor area of existing structures by twenty-five percent (25%) or greater of the existing floor area shall meet "New Construction" low water-use plumbing fixture standards as defined by this ordinance for the entire facility, including retrofitting of plumbing fixtures within existing structures.

**C. RETROFIT EXEMPTIONS****(1) 3.5 GALLON TOILETS**

Previously installed toilets with fixtures using a maximum of 3.5 gallons per flush shall be exempted from the provisions of this section and are not required to be removed for any change of ownership or use which occurs on or before December 31, 1997 provided those toilets are fitted with a toilet water-use reduction device capable of reducing flow by at least 1.0 gallon

per flush. All retrofits upon change of ownership or use following December 31, 1997 shall exclusively use low water-use plumbing fixtures defined by this ordinance.

(2) OTHER

The General Manager shall defer retrofit requirements of this regulation for any plumbing fixture for which present technology is not available to cause the required flow reduction, or where retrofitting is not otherwise feasible. When feasible, retrofit shall be required at the time technology becomes available.

D. PROOF OF RETROFIT UPON CHANGE OF OWNERSHIP

Before the close of escrow for any change of ownership, defined by this ordinance, of real property within the District, the selling owner(s) or his authorized agent shall, in the form and manner specified by the General Manager, certify compliance with the retrofit requirements of this ordinance by one of the following methods:

- (1) Certify that the plumbing permit obtained in relation to plumbing fixture installation shows compliance with this ordinance. This certification shall be recorded by the escrow agent in the Monterey County Recorder's Office, and a copy shall be forwarded to the District by the escrow agent; or
- (2) Certify that an inspection report, or other appropriate report (the General Manager shall maintain a list of

individuals qualified to provide this report) which verifies installation of low water-use fixtures throughout the structure as required by this ordinance. This certification shall be recorded by the escrow agent in the Monterey County Recorder's Office, and a copy shall be forwarded to the District by the escrow agent; or

- (3) Certify that the building inspection by the city or county building official indicates installation of low water-use fixtures throughout the structure as required by this ordinance. This certification shall be recorded by the escrow agent in the Monterey County Recorder's Office, and a copy shall be forwarded to the District by the escrow agent; or
- (4) Certify that plumbing fixtures throughout the structure have been retrofitted in compliance with this ordinance. This certification shall be recorded by the escrow agent in the Monterey County Recorder's Office. A copy of this recorded statement, together with a dated copy of the purchase receipt for each low water-use fixture, and a copy of the labor contract, or statement of self-installation, which evidences complete installation, shall be forwarded to the District by the buyer or seller; or
- (5) The General Manager may waive the proof of retrofit before close of escrow requirement of this section where the seller and buyer certify that the structure will begin to be remodeled or modified within one



hundred and twenty (120) days of the close of escrow, that the structure will be exclusively retrofitted with low water-use fixtures upon completion of construction, and the new owner shall allow inspection of the property by District staff or its authorized agent.

It shall be a violation of this ordinance for any buyer or seller to instruct an escrow agent to close escrow for any sale of property in the District which does not comply with Subdivision D of this rule.

This Subdivision D shall not impose any affirmative or discretionary duty upon an escrow agent, acting in the capacity of escrow officer. Nothing in this ordinance shall be construed, either expressly or by implication, to provide for a criminal proceeding or create a civil liability against a title insurance company, as defined in Insurance Code Section 12340.10, or an underwritten title company, as defined in Insurance Code Section 12402, or their officers, directors, or employees, by reason of an alleged violation of this ordinance by a party or parties to an escrow at such a corporation.

E. PROOF OF RETROFIT UPON CHANGE OF USE

Prior to the change of use of any residential, commercial, industrial, or public authority buildings, the owner of record or his agent shall certify in writing to the Monterey Peninsula Water Management District that prior to such change of use of the structure, the owner has complied with this ordinance, including all plumbing fixture

retrofitting requirements. Change in use of such buildings made prior to submission of such written certification to the General Manager shall constitute a violation of this ordinance.

**SECTION VI. RECORDATION OF NOTICE**

Whenever the General Manager determines that low water-use plumbing fixtures have not been installed at the time of change of ownership or use or when installed pursuant to the mandatory provisions of Section VI have been removed since initial installation, the General Manager may record a notice of violation with the office of the county recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their address is known. The owner of record shall have ninety (90) days to take corrective action. Failure to take corrective action within ninety (90) days shall constitute a violation of this ordinance. The General Manager shall cause a notice of correction to be recorded at such time as the property owner has established full compliance with the provisions of this ordinance.

**SECTION VII. DISCRETIONARY EXEMPTIONS**

The General Manager may, in his discretion, exempt facilities from the provisions of this ordinance, or impose reasonable conditions in lieu of compliance therewith, if he determines that any of the following sections apply:

A. HARDSHIP

The General Manager may grant an exemption for hardship where the requirements of this ordinance would cause an unnecessary and undue substantial hardship upon the owner, or purchaser of the facility, or the public. Substantial hardship may include, but is not limited to:

- (1) Plumbing in an existing facility which does not match connections with low water-using plumbing fixtures and would, therefore, require partial replumbing of the structures. For example, different rough-in dimensions.
- (2) Unavailability of low water-using plumbing fixtures to match a well-defined historic architectural style (i.e., Victorian, Mission Revival) in a locally, state or federally recognized building of historic significance, fitted with authentic plumbing fixtures.

Any project exempted pursuant to Sub-part A (1) of this part shall be required to have installed toilets using a maximum of 3.5 gallons per flush and 2.5 gallon per minute shower heads, if not already so provided.

B. EMERGENCY

The General Manager may grant an exemption for emergency purposes when the requirements of this ordinance would create a condition affecting the health, sanitation, fire protection or safety of the facility owner or the public. Emergency conditions include, but are not limited to, sewer line grades that are insufficient to accommodate reduced flows caused

by conversion of water closet(s) to 1.5 gallon flush as determined by the city, county, or sanitary district engineer.

C. IN LIEU COMPLIANCE

The General Manager may grant an exemption by imposing reasonable conditions in lieu of compliance with the requirements of this ordinance, where the condition would not allow the quantity of water consumed by the facility to exceed the total water demand achieved if the low water-use plumbing fixture standards set by this ordinance had been used, and would not otherwise adversely affect service to any existing water consumer.

**SECTION VIII. APPEALS**

A. CONTENT OF APPEAL

An appeal may be made to the Board of Directors by any public agency or person aggrieved by a decision of the General Manager pursuant to this ordinance. All appeals shall be pursuant to Regulation VII of the District's Rules and Regulations. The appellant must state in the appeal:

- (1) The identity of the appellant and his interest in the decision;
- (2) The General Manager's decision, or the conditions which are being appealed;
- (3) A clear, complete, but brief statement of the reasons why the appellant feels the decision or the conditions imposed were unjustified or inappropriate (this should include reasons the appellant disagrees with the

findings of the General Manager and specific facts in sufficient detail to notify interested persons of the nature of the appeal). The Board will not accept an appeal stated in generalities.

B. ACCEPTANCE OF APPEAL

An optional form for giving notice of appeal shall be provided by the General Manager. The form need not be used if the notice of appeal is complete. An appeal shall not be accepted by the Board of Directors unless it is complete and complies with all requirements. The General Manager shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete. If the General Manager rejects a notice of appeal, he shall inform the appellant of the nature of the deficiency, and shall identify the information necessary to complete the appeal.

**SECTION IX. PENALTIES**

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 this ordinance; or, any contractor who installs or removes plumbing fixtures contrary to the provisions of this ordinance with the intent to defeat the purposes of this ordinance, 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 X. ENFORCEMENT**

The General Manager shall be the officer primarily charged with enforcement of this regulation. All public employees of the Monterey Peninsula Water Management District who are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this ordinance, and shall issue no such permits or licenses in conflict with the provisions of this ordinance, and any such permits, licenses, or uses, if issued in conflict with the provisions of this ordinance, shall be null and void.

**SECTION XI. CIVIL NUISANCE**

- A. 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 this ordinance, and/or any use of any land, building, or premises, established, conducted, operated, or maintained contrary to the provisions of this ordinance, shall be, and the same is hereby declared to be a violation of this ordinance and a public nuisance.
- B. The District may summarily abate the public 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.

- C. Each day any violation of this ordinance continues shall be regarded as a new and separate offense. The remedies provided in this ordinance shall be cumulative and not exclusive.
- D. Should any person, firm, or corporation violate the terms of this ordinance, 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 XII. COST OF ENFORCEMENT**

- A. Any person, firm, or corporation who creates or maintains a public nuisance in violation of this regulation or upon whose property a notice of violation has been recorded, shall, if not corrected within thirty (30) days, be liable for the costs of abatement and costs of correction which shall include, but not be limited to:
  - (1) Cost of investigation;
  - (2) Court costs;
  - (3) Attorney fees;
  - (4) Costs of monitoring compliance.
- B. Upon a continuation of the public nuisance after notice from the District to cease the nuisance, any person, firm, or corporation shall be liable for the costs of abatement set forth above, plus a civil penalty of fifty percent (50%) of these costs payable to the District in addition to any other

costs of enforcement imposed by the court.

**SECTION XIII. REMEDIES CUMULATIVE**

The remedies available to the District to enforce this ordinance are in addition to any other remedies available under the District's Rules and Regulations, or any other state statutes, and do not replace or supplant any other remedy but are cumulative thereto.

**SECTION XIV. 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 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 any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

**SECTION XV. PUBLICATION AS REGULATION XIV, "WATER CONSERVATION"**

Sections I through XIII of this ordinance shall be bound as Rules 140 through 153 of the published Rules and Regulations of the Monterey Peninsula Water Management District, and shall be known as Regulation XIV, "Water Conservation."



**SECTION XVI. EFFECTIVE DATE**

This ordinance shall be effective thirty (30) days following its adoption on second reading.

On motion of Director Lombardo, and second by Director Bernardi, the foregoing ordinance is duly adopted this 13th day of July, 1987 by the following votes:

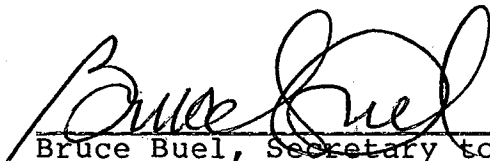
**AYES:** Directors Pendergrass, DeBerry, Strasser Kauffman Heuer, Bernardi and Lombardo

**NAYES:** None

**ABSENT:** Director Williams

I, Bruce Buel, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a full, true and correct copy of an ordinance duly adopted on the 13th day of July, 1987.

Witness my hand and seal of the Board of Directors this 14th day of July, 1987.

  
Bruce Buel, Secretary to the Board

orl/3wco487.30  
(5/28, 6/22, 7/6)

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(orig. ddl-3/27, 4/2,7,13,28,30, 5/11,18)