

ORDINANCE NO. 31

**AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
DELETING RECORDATION REQUIREMENTS
AND SUBSTITUTING A CERTIFICATION PROCESS
FOR CONSERVATION RETROFIT COMPLIANCE**

FINDINGS

1. The District adopted Ordinance No. 30 on July 13, 1987.
2. The District's Ordinance No. 30, among other items, required proof of water conservation retrofit to be filed in the office of the Monterey County Recorder.
3. Representatives of title companies, realtors, and the public generally have expressed concern respecting the Ordinance No. 30 recordation request.
4. An alternative certification process can meet the District's interests and avoid the recordation of documents which has caused concern to the public.
5. The public's interest will be served by the deletion of the recordation required and the substitution of a certification process.
6. The enforcement of the District's ordinance will not be harmed or adversely affected by the certification change.

SECTION I. PURPOSE

It is the purpose of this ordinance that Rules 143 and 144, adopted by Ordinance No. 30, be modified as set forth below:

SECTION II. MODIFICATION OF RULE 143

In Rule 143, the phrase "...within one hundred and twenty (120) days following the effective date of this ordinance..." shall be deleted, and in its place, the phrase "...on or before March 1, 1988..." shall be added.

SECTION III. MODIFICATION OF RULE 144

In Rule 144, Paragraph D, the words which are crossed out shall be deleted from this rule, and the words which are underscored shall be added to this rule as follows:

D. PROOF OF RETROFIT UPON CHANGE OF OWNERSHIP

Before the ~~close of escrow~~ transfer of title 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 certification, 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.

SECTION IV.

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 V.

PUBLICATION

This ordinance shall cause the amendment of Rules 143 and 144 of the published Rules and Regulations of the Monterey Peninsula Water Management District, but this ordinance shall not be published in those rules.

On motion of Director Hughes, and second by Director Strasser Kauffman, the foregoing ordinance is duly adopted this 11th day of January, 1988 by the following votes:

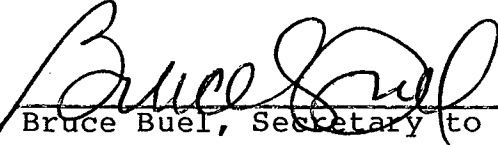
AYES: Directors DeBerry, Pendergrass, Heuer, Strasser Kauffman, Lombardo, Hughes and Davis

NAYES: None

ABSENT:None

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 adopted on the 11th day of January, 1988.

Witness my hand and seal of the Board of Directors this 13th day of January, 1988.



Bruce Buel, Secretary to the Board

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(rev.12/3/87)
(pp amended by Bd. 12/14/87)
(rev.1/11/88 adoption)