

**ADMINISTRATIVE DRAFT
- SUBJECT TO REVISION -**

ORDINANCE NO. 42

AN URGENCY ORDINANCE OF THE
BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING PHASE III WATER RATIONING RULES

ORDINANCE

Section One: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Urgency Ordinance to amend the rules and standards for the Phase III of the present water supply emergency which has been declared in accord with Section 332 of the District Law, and shall amend the sunset date for the administration and management of water rationing including the provision for the temporary collection of fees to fund emergency activities required during this water shortage. This ordinance establishes additional prohibitions upon water waste and non-essential uses of water, and sets a more stringent commercial baseline ration than is set under the existing Phase III standards which had been declared by the District in Ordinance No. 37. This Ordinance shall amend and supersede those provisions of Section Three (B) "Optional Commercial Baseline Standards", Section Five (D) "Water

Emergency Surcharge", and Section Seven "Sunset of Phase III Water Rationing" established by Ordinance No. 37. In all other respects this Ordinance shall be construed to compliment and not supersede the provisions of Ordinances No. 35 and No. 37. This ordinance shall be further read in conjunction with and compliment provisions of the District's Rules and Regulations.

The purpose of this Ordinance is to ensure that consumptive use of potable water during Phase III of the present water supply emergency does not exceed anticipated water supplies available to the District; this Ordinance corrects an inadvertent inequity created by the commercial baseline established by Ordinance 37 wherein a small segment of commercial users were theoretically able to increase water use over their base year use. This Ordinance shall prohibit any such increase in water use from the base year for those commercial users. This Ordinance is required to meet the health and safety requirements of the communities served by the District. As time is of the essence, this ordinance shall be adopted with urgency effect.

No commercial, industrial or public agency user shall receive a larger water ration under the rules and standards set by this Ordinance than would have been permissible under the prior rationing rules set by Ordinance No. 37.

Section Two: Amendment of Optional Commercial Baseline

Standards for Commercial, Industrial and Public Users Pursuant to Phase III Water Rations.

A. Commercial Baseline. Each commercial, industrial, or public authority water user shall have an option to comply with an alternative baseline water ration applicable to that user's type of land use activity. The optional baseline ration shall apply only upon written request of the water user, and shall be granted only upon the submission of the following:

1. Evidence that the applicant cannot meet the standard Phase III commercial ration of 20% reduction in water use; and
2. Evidence that the applicant has taken all reasonable and available state-of-the-art conservation actions, including but not limited to compliance with Ordinance No. 30 conservation methods, to reduce water use; and
3. The applicant's written consent (and property owner's, if needed) to the inspection of the subject property to ensure water conservation and rationing rule compliance; and
4. The applicant's written certification, under penalty of perjury, that the subject property has complied with all required water conservation and water rationing measures.

This application and certification shall be in the form and manner described by the General Manager and include data which

verifies the type and character of the applicant's water use with sufficient detail to enable that use to be classified as one of the use categories established for commercial, governmental or industrial expansions shown in Table No. 2 of Rule 24 in the District Rules and Regulations. The optional baseline ration shall be established at eighty (80%) percent of the average projected water use applicable to each requesting water user as determined pursuant to the formula set forth in Rule 24, provided however, that the water user shall never be granted an ration which exceeds one hundred (100%) of the user's base water use. The General Manager shall determine the water use type for all optional baseline rations applicable to commercial, industrial, or public authority uses.

B. Special Limitation. Notwithstanding any other provision of Ordinance No. 35, Ordinance No. 37 or of this Ordinance, no commercial, industrial, or public water user shall be allowed to increase water use above base year use except as may be allowed by a rationing variance. The grant of such a variance shall ensure that all such water users shall further use all reasonable state-of-the-art means to minimize unnecessary water use, and to avoid water waste.

C. Notification to Prior Applicants for Option Baseline Rations. The General Manager shall cause each commercial,

industrial, or public authority water user that had previously been granted an optional commercial baseline ration to be notified of the more stringent rules which limit commercial, industrial, or public water use to water use which shall not exceed base year use except as may be allowed by a rationing variance. This notice shall be by means of a message on the user's water bill, or by actual written notification.

Section Three: Administrative Implementation. The General Manager shall take action as necessary to ensure that Rules of the California Public Utilities Commission enable any water distribution system to enforce the rationing standards set forth by this ordinance. The General Manager shall further implement a random inspection program to verify compliance with the conservation standards required of all applicants for commercial baseline rations.

Section Four: Amendment of Sunset for Water Emergency Surcharge. Phase III rationing rules previously required each water distribution system to collect a water emergency surcharge for a period of eighteen (18) months from each water customer within that system and forward those proceeds to the District in order to fund costs of administration, enforcement, education, and other necessary activities relating to the water supply

emergency, unless this surcharge had earlier been terminated in full or in part by Resolution of the Board of Directors. This provision shall be modified to allow collection of the water emergency surcharge only for the exact period of time necessary to cause full funding of the District's actual incurred costs of administration, enforcement, education, and other activities relating to the water supply emergency. Thereafter this surcharge shall no longer be collected.

Section Five: Extension of Sunset Date for Phase III Water Rationing.

All provisions of both Ordinances No. 35, No. 37 and this ordinance declaring Phase III water use restrictions shall have no force and effect on or after March 31, 1990, except however, that the date of this sunset provision may be terminated at an earlier date or extended from time to time by Resolution of the Board of Directors upon either a finding that the present water use restrictions are no longer necessary, or in the alternative, that the water supply emergency has not ended and continued water use restrictions are necessary.

Section Six: Publication The provisions of this ordinance shall not be published in the Rules and Regulations of the Monterey Peninsula Water Management District.

Section Seven: Urgency Effect The provisions of this ordinance shall have urgency effect, and shall become effective at 12:01 a.m., June 14, 1989.

On motion of Director Fisher, and second by Director Davis, the foregoing ordinance is adopted this 12th day of June, 1989, by the following vote:

AYES: Directors Fisher, DeBerry, Strasser Kauffman, Lombardo,
 Davis, Heuer and Hughes
NAYS: None
ABSENT: None

I, Bruce Buel, 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 an ordinance duly adopted this 12th day of June, 1989.

Witness my hand and seal of the Board of Directors this 13th day of June, 1989.


Bruce Buel, Secretary to the Board

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