

ORDINANCE NO. 58

AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
MODIFYING ITS FEE STRUCTURE TO
PAY FOR MITIGATION MEASURES
REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

FINDINGS

1. The Monterey Peninsula Water Management District is charged by the Monterey Peninsula Water Management District Law to integrate management of the water resources of the Monterey Peninsula.

2. The Water Management District previously adopted Resolution 90-22 and Ordinance No. 52 to certify the Water Allocation Program EIR, determine the quantity of water available for use, and select measures to mitigate environmental impacts associated with that level of water use. The Water Allocation Program defines how much water may be produced annually from the Monterey Peninsula Water Resource System given the need to protect in-stream fish and wildlife resources, protect riparian resources, assure adequate drought protection, and prevent seawater intrusion.

3. The Water Management District Board reviewed the Water Allocation Program EIR under the California Environmental Quality Act (CEQA) with particular attention to the environmental effects and mitigation measures, and approved findings stating the rationale regarding mitigating each significant environmental effect of that program.

4. In approving the Water Allocation Program, the Board adopted the least environmentally damaging water supply option (Option V) and selected the mitigation measures described in Section XVII of the Findings, beginning at Finding #293. That Supply Option was determined to balance social, economic, housing interests, and the needs of the citizens of the Water Management District.

5. The District implemented a Five-Year Mitigation Plan for the Water Allocation Program as described in the Findings, beginning at Finding #293. This plan includes activities summarized as follows:

Fisheries - the District is required to continue existing programs, capture and transport emigrating smolts in Spring, prevent stranding of fall/winter juvenile migrants, rescue juveniles downstream of Robles del Rio in summer, and modify spillway and transport smolts around Los Padres Dam;

Riparian Vegetation and Wildlife, and Aesthetics - the District is required to continue existing programs, conservation

and water distribution management, prepare and oversee Riparian Corridor Management Plan, implement Riparian Corridor Management Program, and expand soil moisture and vegetative stress monitoring;

Lagoon Vegetation and Wildlife - the District is required to continue existing programs, assist with lagoon enhancement plan investigations, expand long-term lagoon monitoring program, and identify feasible alternatives to maintain adequate lagoon volume.

6. CEQA requires the implementation of a monitoring program to ensure compliance with mitigation measures required by the Water Allocation Program.

7. Program costs for required mitigations under the five year plan include existing costs, repayment of prior program expenses, additional capital costs for new programs, annual costs, and staffing needs as detailed in the Findings.

8. District Ordinance No. 55 was adopted on May 20, 1991 and set a user fee on the Cal-Am water bill of 6.824 percent. Those fees support District programs to reduce adverse environmental effects of continued water production along the Carmel River, and include irrigation activities to mitigate the effects of pumping from Cal-Am wells. These measures are required under the five year plan to ease environmental impacts caused by water production and provide direct and tangible benefits to water consumers.

9. This Ordinance shall authorize the collection of a user fee to fund these costs in the aggregate amount of 8.125 percent of the Cal-Am water bill, causing a 1.301 percent increase to the prior fee of 6.824 percent of that bill. A similar charge shall be made to other district water distribution systems of fifty (50) connections or more to implement a surcharge on each water distribution system bill in a manner to distribute the charge equitably among water users based upon quantity of water use.

10. This fee shall be collected beginning on or about October 1, 1991.

THEREFORE, BE IT ORDAINED, by the Board of Directors of the Monterey Peninsula Water Management District as follows:

SECTION ONE: PURPOSE

This ordinance shall implement a user fee to fund mandated District water supply activities, including the five year mitigation program and the water conservation/rationing program caused by the water supply emergency. This ordinance is required to implement the mandatory requirements of the Water Allocation Program EIR adopted by Resolution 90-22 and Ordinance No. 52, and to implement Phase I conservation measures under Ordinance No. 54.

SECTION TWO: CHARGE IMPLEMENTATION

This Ordinance shall authorize immediate collection of a user fee in the aggregate amount of 8.125 percent of the Cal-Am water bill, replacing prior fees authorized by Ordinance 55 which amounted to 6.824 percent of that bill. The General Manager shall cause a similar charge to be made to consumers of other district water distribution systems of fifty (50) connections or more in a manner to distribute the charge equitably among water users based upon quantity of water use.

SECTION THREE: REVENUES IN EXCESS OF APPROPRIATIONS LIMIT

For revenues not required by the continuing provisions of Ordinance 29, the General Manager shall cause any tax proceeds received by the Water Management District in excess of that amount appropriated in compliance with California Constitution, Article XIII B to reduce and offset, in full or in part, the fee authorized by this ordinance.

SECTION FOUR: EFFECTIVE DATE AND SUNSET DATE

This ordinance shall take effect 30 days following its adoption. The General Manager shall implement the fees imposed by this ordinance on or about October 1, 1991, and shall simultaneously cease imposition of fees authorized by Ordinance No. 55.

SECTION FIVE: CONJUNCTIVE APPLICATION

The provisions of this ordinance are intended to compliment and to be read conjunctively with the Rules and Regulations and other ordinances of the Water Management District. All definitions used in the District Rules and Regulations shall apply to this ordinance.

SECTION SIX: RULES AND REGULATIONS

The provisions of this ordinance shall not become part of the Rules and Regulations of the Water Management District.

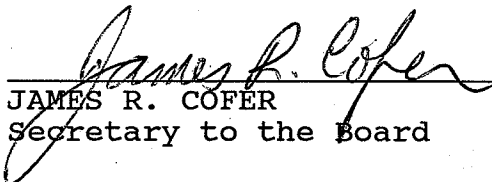
On motion of Director Davis and second by Director Franco the foregoing ordinance is duly passed this 23rd day of September, 1991, by the following votes:

- AYES: Directors Long, Davis, Hughes, Hekhuis, Strasser Kauffman, Franco, and Heuer
NAYS: None

ABSENT: None

I, James R. Cofer, 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 passed on the 23rd day of September, 1991.

Witness my hand and seal of the Board of Directors this 7th day of October, 1991.



JAMES R. COFER
Secretary to the Board

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GUIDELINES FOR ADMINISTERING PHASE I CONSERVATION STANDARDS

1. Identification of Customers with No Water Record.

The General Manager shall secure from each water system a listing of new connections and changes in account billing since the beginning of the base period, October 1, 1987 through September 30, 1988. Additionally, the General Manager shall obtain a listing of new connections and changes in account billing for each new month during the duration of Phase I. For each such residential customer, the General Manager shall ascertain the number of residents and the character of the residence. For each such commercial customer, the General Manager shall ascertain the type and character of the land use. A "census" form will be utilized to obtain information from both residential and commercial water users.

2. Establishment of Conservation Standard (CS) for Water System Customers.

- A. Customers that occupy an existing property with a water record from the base period shall receive a CS based on 90% of base usage for each billing cycle, or b. (below), whichever is greater.
- B. Water users which do not have a full history of water use in the base year shall receive a Conservation Standard based on the total number of residents per residence as follows:

<u>Type Dwelling</u>	<u>Number of Residents</u>	
	<u>One</u>	<u>Two or More</u>
House (Single family detached)	137 gallons 11 units	92 gallons 8 units
Apartment/Townhouse Condominiums	87 gallons 7 units	63 gallons 5 units

(Gallons per person per day/Units per person per billing period)

- C. New commercial, industrial or public authority users with no water baseline record shall comply with the informal variance procedure. A Conservation Standard shall be determined by the commercial standard work sheet.

3. Conservation Standard for Water Systems without Individual Customer Meters.

Water systems without individual customer meters shall have a Conservation Standard equal to 90% of system production during the equivalent production period in the base year. Each and/or operator of a well which derives its source of supply from the Monterey Peninsula Water Resource System shall adhere to the Conservation Standard provisions of Ordinance 54 and shall report that well's use to the Water District according to the Water Meter Method described in District Rule 56, the Power-Correlation Method, or the Land-Use Method.

4. Conservation Standards for Individual Well Users Reporting Under the Land-Use Method.

The General Manager shall advise each well owner reporting under the land-use method to reduce consumption by 10% from previous semi-annual production statements of the same period.

5. Professional Landscape Gardening - The General Manager shall grant an exception to the water waste provisions of Ordinance 54, Section 4.B (7) for outdoor gardening provided the irrigation use shows a minimum of ten (10%) percent reduction in water consumption for that property as compared to base year water use. (See Ordinance 54, Section 4.C (15))

6. Variances: Application will be Submitted by Variance Request to the Conservation Office.

- A. Alternate Year - Water users without established water use billing records for the base year, including well users, may utilize prior water use records from that site to determine a base year for calculating the CS for their water use.
- B. Multiple Meters - The General Manager may take action to consolidate the administration of water conservation for persons or entities (private or public) who utilize more than one water meter for a single purpose or site. Only water meters read in the same billing period shall be consolidated for this purpose.
- C. Change in Business Activity - The General Manager shall adjust the CS of water as a function of increased business if the magnitude of that business activity is fully documented by the customer. Requires approved visual inspection by staff for compliance with conservation measures.

7. Enforcement of Conservation Standards

- A. Conservation office personnel shall investigate water waste complaints for violations. Violation notices and citations shall be issued in the name of the water account owner or holder. Violation of any provision of Ordinance 54, Section Four may subject the user to criminal prosecution for a misdemeanor, and shall subject said persons to the assessment of the following penalty for each and every violation.
1. First Violation - A fine of \$50.00
 2. Second or Subsequent Violation - A fine of \$150.00
- B. If fines imposed are not paid within fifteen (15) days from the date assessed the violator shall be referred to a compliance hearing under the provisions of Ordinance 54, Section Six.

8. Required Conservation Measures

- A. Flush sewers with sub-potable or reclaimed water except in cases of emergency.
- *B. New Construction: Plumbing fixtures must meet or exceed the following water conservation requirements: toilets shall use no more than 1.6 gallons per flush maximum; urinals shall use no more than 1.0 gallon per flush; showerheads and faucets shall use no more than 2.5 gallons per minute maximum irrespective of the pressure in the water supply line; hot water systems must be instant-access; drip irrigation must be installed for all shrub and tree areas unless plant material or site conditions preclude drip as the most appropriate choice (Ordinance Nos. 30 and 47).
- *C. Additions and remodels must meet the following conservation requirements: If you are adding plumbing fixtures, and/or expanding more than 25% of the existing square footage, new construction requirements must be met throughout the structure with the exception of instant-access hot water systems. Retrofitting to instant-access and/or drip irrigation is not required. For the purposes of these guidelines, instant-access shall be defined as providing hot water at the point of service within five (5) seconds.
- *D. Transfer of title: Must replace all toilets using over 1.6 gallons per flush and replace them with a maximum 1.6 gallon per flush models. Similarly, all showerheads must be replaced with maximum of 2.5 gallon per minute types.

*Previously adopted District program or law.

- *E. Existing Business/Public Authority land uses: All existing commercial, industrial, and public authority land uses must meet the following standards as of March 30, 1988:

Showerheads: 2.5 gallons per minute maximum
Faucets: 2.5 gallons per minute maximum (may use aerator)
Toilets: All toilets with a flush capacity greater than 3.4 gallons per flush be fitted with a reduction device capable of saving one gallon per flush.

- F. Transportation of water from the Monterey Peninsula Water Resources System without prior written authorization from the MPWMD shall be deemed water waste. Emergency or health related situations are exempt from this provision.
- G. Verified water waste as determined by the District will serve as prima facie evidence that the water conservation goal (allocation) assigned to the water account is excessive; therefore, the amount of the allocation of water will be subject to review and possible reduction.
- H. On new construction, multiple shower and lavatory installations within non-residential facilities shall be equipped with self-closing valves, except where necessary to protect the public health and safety.
- I. Overhead sprinkler irrigation systems in new median strips less than ten feet wide shall be reviewed closely. If concerns regarding over-spray can not be resolved, then a more efficient irrigation system will be required.
- J. Any water account with a base year's usage of 50 units or greater per billing period (as established under Phases I or III), and which uses 125% or more of its conservation goal (allocation) within any billing period, shall be reviewed by District staff to determine the reason for the excessive usage. If staff cannot find satisfactory reason(s) for the excessive water use, such use shall be deemed water waste. Staff will administer process as established under Phase I (Ordinance No. 54, Section 4), including sending a notice to the appropriate parties. Staff decision may be appealed to the hearing panel.

*Previously adopted District program or laws.