

ORDINANCE NO. 65

AN URGENCY ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ALLOWING PERMITS IF MANDATORY CITY OR COUNTY AUTHORIZATION REQUIREMENTS PREVENTED AN APPLICANT FROM MEETING THE REQUIREMENTS OF ORDINANCE NO. 52

FINDINGS

1. Effective January 1, 1991, Ordinance 52 enacted a temporary moratorium on new uses of water as an interim measure required by the over-dedication of existing water supplies. Except for Exemptions or Variances, the Water Management District suspended all action to receive applications after December 31, 1990.
2. The moratorium imposed by Ordinance 52 did not limit staff's authority to process complete applications received prior to January 1, 1991 or to issue a permit based upon each such application. Those applications were processed pursuant to Ordinance 47.
3. During December, 1990, however, two different standards were imposed upon City and County projects. One standard allowed applicants to submit water permit applications to the Water Management District without prior city planning department review or approval. The other standard (imposed upon project applications for projects located in Monterey County and some cities) mandated prior review by the planning department and prohibited submission of an application to the Water Management District without the prior issuance of a city or county water authorization form.
4. The intent of this ordinance is to equalize under Ordinance 52 the opportunities for projects located in Monterey County (or located within other cities which imposed mandatory prior review requirements) with the opportunities afforded to projects located within cities which had no prior mandatory approval requirements in advance of authority to seek a Water Management District permit.
5. This ordinance shall effect only the class of applicants whose project was in process at the time Ordinance 52 was adopted, but who were prevented from meeting the time requirements of Ordinance 52 exclusively due to mandatory city or county water authorization requirements. This ordinance equitably addresses concerns of this group by accommodating commitments made and reasonable expectations held by this class of applicants.
6. Remedying the inequities imposed upon this class of applicants promotes the welfare of the citizens of the District, facilitates residential needs of the Monterey Peninsula, and shall not cause an undue increase in the use of water resources. The use of water enabled by this measure shall nonetheless be strictly accounted for, and that water use should be

debited from the future water allocation for the jurisdiction in which that project is located.

7. In all other respects, the moratorium on new water use permits enacted by Ordinance 52, and the amendments to that ordinance caused by Ordinances 59, 62 and 64, shall remain unchanged by this ordinance. This ordinance shall republish Ordinance 47 for the sole and exclusive purpose of re-establishing standards and criteria to enable the issuance of permits on the same basis as had been afforded applications for water permits received prior to January 1, 1991.
8. This ordinance shall promote the public health, safety and welfare of the community by correcting an inequity imposed upon a small class of applicants. Accordingly, this ordinance is enacted as an urgency measure, and shall take effect upon its adoption.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title.

This Ordinance shall be known as the Equitable Exception Ordinance of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose.

The Monterey Peninsula Water Management District enacts this ordinance to modify standards which implemented the moratorium on new uses of water enacted by Ordinance 52. This ordinance shall apply solely to the select class of applicants whose project was in process, who were precluded from submitting water permit applications to the Water Management District by a county or city plan review process which delayed issuance of a water authorization form by the city or county, where the delay in submitting the application to the Water Management District was not within the applicant's control, and where the inability to meet the time requirement imposed by Ordinance 52 was exclusively attributable to mandatory city or county water authorization requirements. Each water permit approved pursuant to this ordinance shall meet the standards and criteria then in effect as of December 31, 1990.

In all other respects, the moratorium on new water use permits enacted by Ordinance 52 and amended by Ordinance 59, 62 and 64 shall remain unchanged by this ordinance. The continuing moratorium on all new or intensified uses of water is required due to the present over-dedication of the existing water supply. This circumstance continues to constitute a water supply emergency in accord with Section 332 of the District Law.

Section Three:

Equitable Exception Criteria.

- A. The following category shall be added as a new paragraph (b) to Section Three, Paragraph A, of Ordinance 52, creating an exception to the limit on issuance of permits for new or expanded water use.
- (a) Paragraph (a) shall contain the existing text of Section Three, Paragraph A, [Ordinance 52], without modification.
 - (b) In addition to any other provision of Section Three, Paragraph A, of Ordinance 52, staff shall be authorized to process complete applications and to issue a permit based upon each such application, under the criteria set forth below:
 - (1) Each applicant for an exception under this paragraph (b) shall have had a complete and current application pending review before a city or Monterey County on December 31, 1990.
 - (2) The city or Monterey County shall provide a statement regarding the project that (effective December 31, 1990) the application was complete and current, and that each applicant had paid all necessary planning fees and met pre-submission policy requirements pursuant to the city/County plan review process.
 - (3) The exception under this paragraph (b) shall apply exclusively to applications which were precluded from submission to the Water Management District by a county or city plan review process which required the applicant to obtain a prior water authorization form from that city or county. Applicants shall provide evidence to the Water Management District from that city that such a requirement was in effect as of December 31, 1990.
 - (4) The project plans shall, as of December 31, 1990, have been sufficient to be deemed complete and to justify submission and processing by the Water Management District had the project been in a planning jurisdiction which did not impose a mandatory requirement that the applicant obtain a prior water authorization form from that city or county before a water permit application could be submitted to the Water Management District.
 - (5) Any delay in submitting the application to the Water Management District prior to the limit imposed by paragraph (a) of Section 3 [Ord. 52] must have been beyond the applicant's control, and the inability to meet the requirements of Ordinance 52 must be exclusively attributable to mandatory city or county water authorization requirements.
 - (6) Each applicant shall provide a statement to the Water Management District from that city or County regarding the project to the effect that there has been no delay (after January 1, 1991) caused by the applicant in the processing, review or approval of the application.

- (7) Each water permit approved pursuant to this paragraph (b) shall meet the standards and criteria for issuance of water permits then in effect as of December 31, 1990, including but not limited to the provisions of Ordinance 47. However, current fee requirements shall apply to each such application.
- (8) Use of water enabled by any permit issued under this paragraph (b) shall be strictly accounted for, and the quantity of water use shall be debited from the future water allocation for the jurisdiction in which that project is located. The city or County shall provide a water release form for the full quantity of water enabled by the permit issued under this paragraph (b). The water shall be debited from the future water allocation for the jurisdiction in which that project is located. Without such a written water release form, the permit shall not issue.
- (9) No permit shall be issued pursuant to this paragraph (b) after December 31, 1993.

- B. This ordinance shall republish Ordinance 47, entitled "An Urgency Ordinance of the Board of Directors of the Monterey Peninsula Water Management District Causing a Temporary Limit on the Issuance of Water Connection Permits" for the sole and exclusive purpose of republishing standards and criteria for the issuance of permits under paragraph (b) above. The revocation of Ordinance 47 effected by Ordinance 52, Section Six, shall not apply to any permit issued pursuant to paragraph (b) above.
- C. Existing text under Section Three, A, "General Limit on Permits which Intensify Water Use" of Ordinance 52 shall be given the paragraph number "(a)", and the text set forth above in Part (b) of Section Three of this ordinance shall be added as paragraph "(b)" to Section Three, A.

Section Four: Accounting for Water Use.

The use of water enabled by any permit issued under this ordinance shall be strictly accounted for, and quantity of water use shall be debited from the future water allocation for the jurisdiction in which that project is located.

Section Five: Definitions.

Unless the context specifically indicates otherwise, all words and phrases used in this ordinance shall be given definitions as set forth in Rule 11 of the District Rules and Regulations, or as set forth in Ordinance 52, or as set forth in Ordinance 59.

Section Six: **Republication of Ordinances 47, 52, 59, 62 & 64.**

Except as modified by this ordinance, the provisions enacted by Ordinance 52, 59, 62 and 64 shall remain unchanged by this ordinance, and shall hereby be republished.

This ordinance shall further republish Ordinance 47, entitled "An Urgency Ordinance of the Board of Directors of the Monterey Peninsula Water Management District Causing a Temporary Limit on the Issuance of Water Connection Permits" for the sole and exclusive purpose of republishing standards and criteria for the issuance of permits under paragraph (b) of Section Three above.

Section Seven: **Urgency Ordinance Taking Immediate Effect.**

This ordinance shall be adopted with urgency effect, and shall therefore take effect at 12:01 a.m. on the day following its adoption.

Section Eight: **Publication and Application.**

This ordinance shall not be published in the permanent Rules and Regulations of the Monterey Peninsula Water Management District. The ordinance shall be separately distributed together with Ordinance 52.

This Ordinance shall be read in conjunction with and compliment all provisions of the District's Rules and Regulations, provided, however that the provisions of this measure shall take precedence and supersede any contradictory provision of those rules. This Ordinance shall also be read in conjunction with and compliment those provisions of District Ordinance 47, 52, 59, 62 and 64 provided, however that the provisions of this measure shall take precedence and supersede any contradictory provision of those ordinances.

Section Nine: **Sunset Date.**

This ordinance shall not have continuing effect, but shall have a sunset date of December 31, 1993, unless Ordinance No. 52 is earlier revoked in which case this ordinance shall have the same sunset date as Ordinance 52.

Section Ten: **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 one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director, and second by Director, the foregoing ordinance is adopted this 16th day of November, 1992, by the following vote:

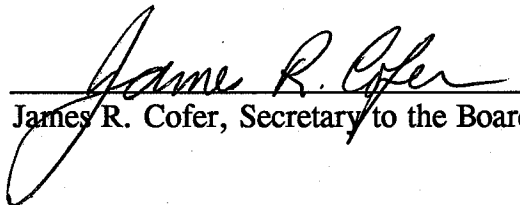
AYES: Directors Farina, Heuer, Pendergrass, Hekhuis, Long, Karas and Hughes.

NAYS: None.

ABSENT: None.

I, James R. Cofer, 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 16th day of November, 1992.

Witness my hand and seal of the Board of Directors this 16th day of November, 1992.


James R. Cofer, Secretary to the Board