

ORDINANCE NO. 72

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AMENDING PERMIT FEES FOR LOW INCOME HOUSING

FINDINGS

1. This ordinance shall amend existing law which provides fee exemptions for new water use or intensified water use that is dedicated to affordable housing. This ordinance amends the existing definition of affordable housing, and establishes a new definition for low-income and very low-income housing. These amendments shall modify the Rules and Regulations of the District.
2. This ordinance modifies the fee exemption for affordable housing by specifying conditions for housing which qualifies for a 50% reduction in District connection charges. Housing which qualifies as "low income and very low income housing" shall be exempt from all connection charges while the use of that property is limited by a deed restriction.
3. The following District Rules shall be amended by this ordinance: Rule 11 (Definitions) and Rule 24.5 (Affordable Housing).

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This Ordinance shall be known as the "Affordable Housing Fee Exemption Ordinance" of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Affordable Housing Fee Exemption Ordinance as legal authority to amend the existing law which provides fee exemptions for new water use or intensified water use that is dedicated to low and very low income housing. This ordinance modifies the exemption for affordable housing purposes by making that exemption applicable only to "low income and very low income housing". Qualified "Affordable Housing" however, shall be assessed 50% of the connection charge for that period of time the property is subject to a deed restriction.

This ordinance shall modify the existing Rules and Regulations of the District.

Section Three: Water Distribution Systems Affected

This ordinance shall apply to each water distribution system producing water from the Monterey Peninsula Water Resource System.

Section Four: Definitions.

A. Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below for the purpose of this ordinance.

1. "District" - shall mean the Monterey Peninsula Water Management District (MPWMD).
2. "Shall" - shall be mandatory, "May" shall be permissive.

B. This Ordinance shall revise Rule 11 (Definitions) to modify the definitions of the following terms: "Affordable Housing", "Very Low-Income Household", "Low-Income Household", "Low-Income Housing" and "Moderate Income Household". Each term shall be defined in Rule 11 in accord with the definition set forth in Section Five of this Ordinance.

Section Five: Amendment of Rule 24.5, "Connections for Affordable Housing".

The following text revision and addition (**bold and underscored**) shall be made to Rule 24.5 B (Connections for Affordable Housing) of the District Rules and Regulations:

A. **DEFINITIONS AFFECTING AFFORDABLE HOUSING**

For the purpose of this Rule 24.5, the following definitions shall apply:

1. Definition of "Moderate Income Household". The term "Moderate Income Household" shall mean those individuals or group of individuals living together as one household, whose combined gross annual income **does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data for a "Moderate Income Household" in the Seaside, Monterey, Salinas Standard Metropolitan Statistical Area Median Family Income as specified in the latest United States Census and projected to a year of sale by the United States Department of Housing and Urban Development. "Moderate Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.**

2. Definition of "Affordable Housing". The term "Affordable Housing" shall mean and refer to housing that is affordable to moderate-income households. Such housing is affordable if the sales price is equal to or less than three times the maximum annual moderate-income household income; or if rented, if the annual rent is equal to or less than 25% of the maximum annual moderate-income household income. "Moderate Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.

The term "Affordable Housing" shall only apply to a "Dwelling Unit" which is available for private occupancy, but for which ownership and/or occupancy is restricted by recorded covenant or other deed restriction. This covenant or restriction shall be enforceable by either the District or the public and shall limit use of all "Affordable Housing" so that only households of "Moderate Income" or less shall qualify to occupy these units by purchase, by rent, or by lease. This covenant or restriction shall comply with the standards set by the California Department of Housing and Community Development (HCD) and the Monterey County Housing Authority for resale and occupancy of "Low Income" and "Moderate Income" housing, and shall require that the District receive notice prior to the removal or modification of that deed restriction. The recorded covenant shall further provide notice to each subsequent owner that any change of water use from an affordable housing use to any other residential or non-residential use shall constitute an intensification of use which shall require payment at the then-present value of connection charges to the District both for the intensification of water use capacity and for the increment of water use which had originally been exempted from the full fee. The recorded covenant and shall be in a form approved by the District General Manager. This covenant shall also require the use and maintenance of water conservation measures as determined by the District General Manager which shall, among other things, maximize the use of low-flow fixtures and drought resistant landscaping.

3. Definition of "Very Low-Income Household" and "Low-Income Household". The terms "Very Low-Income Household" and "Low-Income Household" shall mean those individuals or group of individuals living together as one household, whose combined gross annual income for each such group does not exceed the limits established under the United States Housing Act of 1937, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) in its annual transmittal of income eligibility data. Permissible income limits shall not exceed the primary criteria to determine applicant eligibility for Section 8 HUD Public Housing programs. The terms "Very Low-Income" and "Low-Income" shall include all salaries, rents and similar sources of income as well as the economic value of property, savings, stocks, bonds, and other assets.

4. Definition of "Low-Income Housing". The term "Low-Income Housing" shall mean and refer to housing that is affordable to low-income and very low-income households. Such housing is affordable if the sales price is equal to or less than three times the maximum annual very low-income household income; or if rented, if the annual rent is equal to or less than 25% of the maximum annual very low-income household income.

The term "Low-Income Housing" shall only apply to a "Dwelling Unit" which is available for private occupancy, but for which ownership and/or occupancy is restricted by recorded covenant or other deed restriction. This covenant or restriction shall be enforceable by either the District or the public and shall limit use of all "Low-Income Housing" so that only households of "Low-Income" or less shall qualify to occupy these units by purchase, by rent, or by lease. This covenant or restriction shall comply with the standards set by the California Department of Housing and Community Development (HCD) and the Monterey County Housing Authority for resale and occupancy of "Low Income" housing, and shall require that the District receive notice prior to the removal or modification of that deed restriction. The recorded covenant shall further provide notice to each subsequent owner that any change of water use from a low-income housing use to any other residential or non-residential use shall constitute an

intensification of use which shall require payment at the then-present value of connection charges to the District both for the intensification of water use capacity and for the increment of water use which had originally been exempted from the full fee. The recorded covenant shall be in a form approved by the District General Manager. This covenant shall also require the use and maintenance of water conservation measures as determined by the District General Manager which shall, among other things, maximize the use of low-flow fixtures and drought resistant landscaping.

5. Definition of " Dwelling Unit". The term " Dwelling Unit" shall mean single or multiple residences suitable for single household occupancy but shall not refer to non-permanent student or transient housing, the occupancy of which is projected to average 24 months or less.

B. CONNECTION CHARGE EXEMPTION

1. PARTIAL FEE EXEMPTION FOR AFFORDABLE HOUSING. Each residential connection which supplies water to a " Dwelling Unit" meeting the definition of " Affordable Housing" shall be exempt from fifty percent (50%) of the connection charge required pursuant to Rule 24 during the period that " Dwelling Unit" continuously meets the definition of " Affordable Housing". Any change of water use from an " Affordable Housing" use to any other residential or non-residential use (even if the change is limited to removal or modification of the required deed restriction), or any transfer to another site, shall constitute an intensification of use, and shall require the imposition of the then-current connection charge both for the intensification and for that entire increment of water use capacity which had been exempted from the original connection charge. All other permit conditions, including processing fees and surcharges, shall apply to these connections.

2. FEE EXEMPTION FOR LOW-INCOME HOUSING. Each residential connection which supplies water to a " Dwelling Unit" meeting the definition of " Low-Income Housing" shall be exempt from all connection charges required pursuant to Rule 24 during the period that " Dwelling Unit" continuously meets the definition of " Low-Income Housing". Transfer of water use to any other site shall be prohibited. Any change of water use from a " Low-Income Housing" use to any other residential or non-residential use (even if the change is limited to removal or modification of the required deed restriction) shall constitute an intensification of use, and shall require the imposition of the then-current connection charge both for the intensification and for that entire increment of water use capacity which had been exempted from the original connection charge. All other permit conditions, including processing fees and surcharges, shall apply to these connections.

Section Six: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This ordinance shall be read in conjunction with and compliment those provisions of the District's Rules and Regulations, provided, however that the provisions enacted by this measure shall take precedence and supersede any contradictory provision of those rules. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Seven: Effective Date

This Affordable Housing Fee Exemption Ordinance shall be given effect at 12:01 a.m. on May 1, 1994. Notwithstanding the above date, however, any completed permit application currently being processed by the District on the effective date of this ordinance may, at the election of the applicant, instead be processed pursuant to the District Rules and Regulations in effect at the time that application had been deemed complete. The time for this election shall be limited, and shall not apply to any permit issued after 12:01 a.m. on November 1, 1994.

Section Eight: 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 Haddad, and second by Director Heuer, the foregoing ordinance is adopted upon this 21st day of March, 1994, by the following vote:

AYES: Directors Hughes, Farina, Haddad, Heuer and Pendergrass

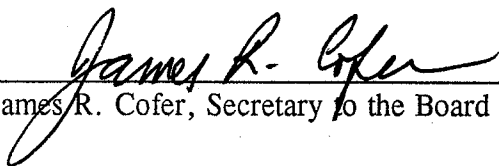
NAYS: None

ABSENT: Director Karas

ABSTAIN: Director Burkleo

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 on the 21st day of March, 1994.

Witness my hand and seal of the Board of Directors this 22nd day of March, 1994.


James R. Cofer, Secretary to the Board