

ORDINANCE NO. 79

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ALLOWING TRANSFERS OF COMMERCIAL WATER CREDITS INTO A JURISDICTION'S ALLOCATION

FINDINGS

1. This ordinance amends existing standards and procedures for the issuance of water connection permits and shall amend the Rules and Regulations of the District.
2. This ordinance modifies the transfer of water credits provision of the District's Rules and Regulations and allows a jurisdiction to transfer commercial water credits into a general water allocation.
3. The provision allowed by this ordinance is necessary due to limited new water supplies in the District. It will enable a jurisdiction to manage its local water resources more efficiently.
3. The following District Rule is amended by this ordinance: Rule 28 B (Property-to-Property Transfers of Water Use Credits for Commercial or Industrial Uses).

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Ordinance as legal authority to modify existing standards pertaining to the transfer of commercial water credits. This ordinance shall modify the existing Rules and Regulations of the District.

Section Two: Water Distribution Systems Affected

This ordinance shall apply to each water connection (expansion / extension) permit issued by the District which is subject to an allocation system as outlined in District Ordinance No. 70. Transfers may only occur when the property from which the credit originates is within the same water distribution system as the jurisdiction's allocation.

Section Three: Modification of Rule 28 B "Property-to-Property Transfers of Water Use Credits for Commercial or Industrial Uses"

The following provisions in bold and underscore shall be added to Rule 24 B of the District's Rules and Regulations:

Property-to-Property and Property-to-Jurisdiction Transfers of Water Use Credits for Commercial and Industrial Uses. Water use credits for existing water use which has been allowed by the District on or after January 1, 1985, may be transferred from one property to another for commercial and industrial connections pursuant to this Rule. **Commercial and industrial water credits may also be transferred directly into a jurisdiction's allocation.** Open space and residential water use shall not be transferred. The following conditions shall apply:

- (1) Water use credit transfers shall only occur within a single jurisdiction. No inter-jurisdictional transfer shall be allowed. **Property-to-property** transferred water credits shall not have any impact on a jurisdiction's allocation. **Property-to-jurisdiction transfers shall increase a jurisdiction's available allocation.**
- (2) Water use credit transfers shall only occur within a single water distribution system. No inter-system transfer shall be allowed.
- (3) Water use credit transfers shall only occur with the prior approval of the city, county or airport district.
- (4) Water use credit transfers shall only be allowed from an existing commercial or industrial use, and must be applied to the intensification of another existing commercial or industrial use **or added to a jurisdiction's allocation.** Other than transfers which add to a jurisdiction's allocation transfer credits shall not originate from, or be transferred to any residential use. Transfer credits shall not derive from any prior open space water use.
- (5) **Property-to-property** water use credit transfers shall only be used for intensification purposes. New water connections shall not be issued based upon a **property-to-property** transferred water use credit.
- (6) **Property-to-property** commercial water use credit transfers shall only enable intensification of an existing commercial or industrial water use capacity, as proposed by a current application for a water permit. Transfers shall not provide water use capacity for new commercial or industrial water meter connections. Transferred water credits shall not be "banked" for future use at any new or different site.
- (7) **The use of credits resulting from a property-to-jurisdiction transfers shall be at the discretion of the jurisdiction.**

- (8) **All** water use credit transfers shall originate only from prior documented commercial water use capacity and shall be subject to each and every limitation on the calculation of water use credits set forth in Rule 25.5.
- (9) **All** transfers of water use credits shall occur only by the written (and recorded) agreement of the owner of record for each parcel from which the transfer originates. This agreement shall confirm that the transfer of water credit is irrevocable, shall quantify remaining water use capacity required by the originating parcel(s), and acknowledge that any intensification of water use capacity on the originating site thereafter shall result in additional connection charge fees. If all prior water use capacity is transferred from a site (due to demolition of all structures on that site), the recorded agreement and notice shall consent to permanent removal of the meter connection from the originating site, and acknowledge that the placement of a new meter shall be limited due to unavailability of water.
- (10) Transfer of water use credits shall only occur upon approval by the District. The District shall have sole and exclusive authority to determine the water use capacity which cannot be transferred by reason of capacity requirements for the originating site. The District shall have sole and exclusive authority to determine the water use capacity requirements for the receiving site.
- (11) Transfer of water use credits shall not be approved by District staff if the effect of the transfer shall cause the originating site to have insufficient water credit to meet the water use capacity requirements of all existing structures on the transferring property site. If all prior water use is transferred from a site (due to demolition of all structures), the transfer shall be approved only upon the removal of the meter connection from the originating site, and the recordation of the notice specified above.
- (12) The effect of any approved water credit transfer shall be the irrevocable extinction of any right or entitlement to the actual water use, water use capacity, or water credit which has been transferred from the originating (transferring) site.
- (13) Before any water use credit transfer shall occur, the transfer fee required by Rule 60 for each originating site shall be paid by the applicant.

Section Four: **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 complement 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 Five: Effective Date

This ordinance shall be given effect at 12:01 a.m. on October 18, 1995.

Section Six: 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 Karas, and second by Director Burkleo, the foregoing ordinance is adopted upon this 18th day of September, 1995, by the following vote:


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

NAYS: None.

ABSENT: None

I, Ray Millard, 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 18th day of September, 1995.

Witness my hand and seal of the Board of Directors this 30th day of October, 1995.



Ray Millard, Secretary to the Board