

ORDINANCE NO. 89

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT REQUIRING TOILET RETROFITTING OF VISITOR SERVING COMMERCIAL FACILITIES AND REVISING SECTIONS OF THE DISTRICT'S WATER CONSERVATION REGULATION

FINDINGS

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. The Water Management District Board of Directors finds that consistency in water conservation rules and requirements between local agencies assists the public in understanding and implementing such standards. This ordinance causes the alignment of District conservation policies with those of the Monterey County Water Resources Agency and is consistent with the provisions of Section 12 of the Memorandum of Understanding between the Monterey County Water Resources Agency, the Monterey Peninsula Water Management District and the Pajaro Valley Water Management Agency.
4. California State Water Resource Control Board Order No. WR 95-10, issued in July 1995, ruled that California-American Water Company (Cal-Am) did not have a legal right to take approximately 69 percent of the water currently supplied to Cal-Am users. The SWRCB has set specific goals to reduce water diversions from the Carmel River Basin.
5. Under SWRCB Order No. WR 95-10 Cal-Am has been ordered to reduce its historical diversion from the Carmel River Basin by 20 percent in Water Year 1997 and each subsequent year.
6. Despite requests for voluntary water conservation, Cal-Am water use will not achieve the 20 percent conservation goal set by the SWRCB for Water Year 1997.
7. Toilet retrofitting has proven to be an effective method to reduce water demand.

8. This ordinance shall implement a requirement for visitor-serving facilities, as defined herein, to replace existing non-ultra-low flush toilets with ultra-low flush toilets by December 31, 2000.
9. This ordinance shall instate requirements to promote water conservation in visitor-serving facilities, and public and quasi-public facilities, and shall amend the definition of non-essential water use.
10. The replacement of existing facilities is a categorical exemption under Class I, Section 15301 of the California Environmental Quality Act (CEQA). A Notice of Exemption has been filed in compliance with CEQA.
11. This ordinance shall be enforced through Regulation XIV of the District Rules and Regulations.
12. The following District Rules shall be amended by this ordinance: Rule 11 (Definitions) and Rule 143 (Retrofit of Existing Commercial Uses), Rule 144 (Retrofit Upon Change of Ownership or Use), Rule 146 (Discretionary Exemptions). Rule 154 shall be added.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This Ordinance shall be known as the "Conservation Program Amendment Ordinance" of the Monterey Peninsula Water Management District.

Section Two: **Statement of Purpose**

The Monterey Peninsula Water Management District enacts this Conservation Program Amendment Ordinance as legal authority to modify and expand standards and procedures pertaining to water conservation requirements and restrictions for the Monterey Peninsula. This ordinance shall modify the existing Rules and Regulations of the District.

Section Three: **Water Distribution Systems Affected**

This ordinance shall apply to all properties within the Monterey Peninsula Water Management District.

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. Visitor-Serving Facility - Shall include all hotels, motels, restaurants, convention/meeting facilities, and service stations within the Monterey Peninsula Water Management District. Other facilities may be designated as a visitor serving facility by the General Manager upon finding that such facility exists primarily for the use of tourists and the traveling public. Short term rentals of private property are not included under this definition.

2. Quasi-public facilities - Shall include educational institutions, libraries, churches, community centers, parks, picnic grounds, recreation centers, public swimming pools and tennis courts, and other such entities as designated by the General Manager.

B. The words and phrases defined above in this Section shall further be set forth as defined terms within Rule 11 of the District's Rules and Regulations.

Section Five: **Amendment to Rule 11, Definitions**

The following modifications (in bold) shall be made to Rule 11 of the District Rules and Regulations.

NON-ESSENTIAL WATER USE - "Non-Essential Water Use" shall mean the indiscriminate or excessive dissipation of **potable** water which is unproductive, or does not reasonably sustain life or economic benefits. Non-essential water use includes but is not limited to the following:

1. Serving drinking water to any customer, unless expressly requested, by any restaurant, hotel, cafe, cafeteria or other public place where food is sold, served or offered for sale.
2. Operation of fountains, ponds, lakes, or other ornamental use of potable water without recycling.

3. Unreasonable or excessive use of potable water for dust control or earth compaction without prior written approval of **the** General Manager where non-potable water or other alternatives are readily available or satisfactory.
4. Use of un-metered fire hydrant water by individuals other than for fire suppression or utility system maintenance purposes, except upon prior approval of **the** General Manager.
5. Failure to meet MPWMD Ordinance No. 30, Section IV, retrofit requirements for **an** existing business after having been given a reasonable amount of time to comply.
6. **Draining and refilling of swimming pools or spas except (a) to prevent or correct structural damage or to comply with public health regulations, or (b) upon prior approval of the General Manager.**

Section Six: Amendment of Rule 143, Retrofit of Existing Commercial Uses

The following modifications (in bold) shall be made to Rule 143 of the District Rules and Regulations.

A. All non-residential water users within the District, including existing hotels, motels, other commercial, and industrial uses, on or before March 1, 1988, shall retrofit all shower and washbasin faucet plumbing fixtures which are installed, but which do not meet low water-use plumbing fixture standards, with shower heads with a maximum flow capacity of 2.5 gallons per minute (gpm), and washbasin faucets with aerators which limit the flow rate to a maximum of 2.5 gpm. Further, all toilets which exceed 3.4 gallons per flush shall be installed with toilet water-use reduction devices capable of reducing flow by at least 1.0 gallon per flush. **The General Manager shall defer the retrofit requirement of this section for any plumbing fixture for which present technology is not available to cause the required flow reduction, such as in flushometer-style toilet fixtures, or where retrofitting is not otherwise feasible. When feasible, retrofit shall be required at the time technology becomes available.**

B. All existing visitor-serving facilities shall, before December 31, 2000, be retrofitted exclusively with ultra-low flush toilets, except as provided by Rule 146.

Section Seven: Amendment of Rule 144, Retrofit Upon Change of Ownership or Use

A. The following subsection of Rule 144, Retrofit Upon Change of Ownership or Use, shall be deleted from Rule 144 and added as Rule 146 (D), Discretionary Exemptions.

The General Manager shall defer the retrofit requirement of this section for any plumbing fixture for which present technology is not available to cause the required flow reduction, such as in flushometer-style toilet fixtures, or where retrofitting is not otherwise feasible. When feasible, retrofit shall be required at the time technology becomes available.

Section Eight: Addition of Rule 154. Conservation Message Requirements

The following shall be added as Rule 154, Conservation Message Requirements:

A. On or before October 1, 1997, all visitor-serving and public and quasi-public facilities shall display in visible locations in all restrooms, kitchens, and dining areas, placards or decals approved by the District promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

B. The owner and/or manager of each rental property shall provide a pamphlet, brochure, or other literature to current and future tenants that lists the water conservation requirements, including the water waste and non-essential water use regulations of the District.

Section Nine: 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. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Ten: Effective Date and Sunset

This ordinance shall be given effect at 12:01 a.m. on August 21, 1997. This Ordinance shall not have a sunset date, however the District Board shall review the provisions of this ordinance before June 2001.

Section Eleven: 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 unenforcability shall not affect the validity or enforcement of the remaining portions of this

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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 Hughes, and second by Director Potter, the foregoing ordinance is adopted upon this 21st day of July, 1997, by the following vote:

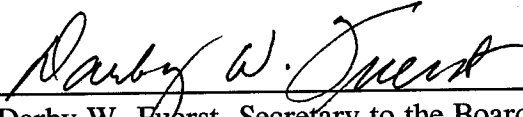
AYES: Directors Hughes, Potter, Burkleo, Haddad, Ely and Pendergrass

NAYS: None

ABSENT: Director Ernst

I, Darby Fuerst, 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 July, 1997.

Witness my hand and seal of the Board of Directors this 22nd day of July, 1997.



Darby W. Fuerst, Secretary to the Board