

ORDINANCE NO. 90

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ALLOWING RESIDENTIAL RETROFIT CREDITS

FINDINGS

1. This ordinance shall amend the process by which the Monterey Peninsula Water Management District issues permits for intensified water use on single-family residential properties deriving water from the Monterey Peninsula Water Resource System.
2. This ordinance amends existing standards and procedures for the issuance of water permits, and shall amend the Rules and Regulations of the District.
3. This ordinance shall allow the reinvestment of retrofit water savings from toilet retrofits on single-family residential properties. The reinvestment of retrofit credit is necessary to allow limited residential remodels and/or additions during times of limited water supply. Allowing reinvestment of retrofit credits benefits the residential needs of the citizens of the District.
4. This ordinance provides for repayment by the authorizing jurisdiction of reinvested retrofit credits through deduction from the next available water allocation.
5. The following District Rule shall be added by this ordinance: Rule No. 25.6, ("Residential Retrofit Credits").

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title.**

This ordinance shall be known as the Residential Toilet Retrofit Credit Ordinance of the Monterey Peninsula Water Management District.

Section Two: **Statement of Purpose.**

The Monterey Peninsula Water Management District enacts this Ordinance to modify the standards for the issuance of water permits during this time of limited water supply. This Ordinance shall allow water saved through toilet retrofits to be reused for residential remodels/additions within an

existing single-family residence, where the remodel/addition may otherwise not be allowed due to insufficient water within a jurisdiction's allocation.

Section Three: **Water Users Affected**

A. Systems and Water Users Affected. The retrofit credits allowed by this Ordinance shall apply to the California-American (Cal-Am) Water Company, and all Cal-Am sub-units, including Water West and Rancho Fiesta Mutual systems, with the exceptions of Carmel Valley Mutual and Ryan Ranch.

Section Four: **Definitions.**

A. The following definitions shall be added to Rule 11 of the District Rules and Regulations.

1. "Retrofit Credit" - shall mean an amount of water saved by replacing existing high flow toilets (those designed to use greater than 1.6 gallons-per-flush) with ultra-low flush toilets designed to use a maximum of 1.6 gallons-per-flush. For the purposes of this Ordinance, a credit in the amount of 2.35 fixture units shall be applied to a permit application for each qualifying toilet on a single-family residential site.
2. "Remodel" - shall mean the rebuilding or rearrangement of an existing area.
3. "Addition" - shall mean an expansion of useable square-footage.
4. "Single-family dwelling" - shall mean a building designed for occupancy by one family.
5. "Single-family residential site" - shall mean a property with one single-family dwelling. A separate guest house or auxiliary unit without a kitchen shall be allowed by this definition.
6. "Multi-family dwelling" - shall mean a building designed for occupancy by two or more families living independently of each other.
7. "Multi-family residential site" - shall mean a property with one or more multi-family dwellings, or a property containing more than one single-family dwelling.

B. 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 No. 59.

Section Five: Authorization for the Re-Use of Retrofit Credits.

The following shall be published in the District Rules and Regulations as Rule 25.6, Retrofit Credits:

A. The use of Retrofit Credits is limited to remodels and/or additions to a single-family residential site. It is not applicable to commercial, industrial, or multi-family residential sites. Retrofit Credits shall not be used to construct new dwelling units.

B. The term "Retrofit Credit" shall refer to the permanent abandonment of prior residential water use attributed to toilets with maximum flushes greater than 1.6 gallons-per-flush on that site. Retrofit Credits shall not be saved for future use and shall not be transferred to any other site.

C. District staff (1) shall quantify the retrofit credit as defined by this Ordinance by documenting existing water fixtures by an inspection arranged at the time the complete water permit application is submitted, and (2) shall verify by inspection of the property upon projection completion, that the water use reductions are permanent. Credit shall only be granted for reductions which occur as a condition of a water permit application and shall not be applied to retrofits which occurred prior to application and verification by District staff. Credit documentation may occur before the complete water permit application is submitted when the District is able to accommodate the inspection and there is proof submitted to the District that the project is under review by the jurisdiction.

D. Retrofit Credits shall be available to properties which transfer ownership and have not been previously subjected to the retrofit requirements. The retrofit credit shall be available providing the water permit is issued within one-hundred and twenty (120) days following the transfer of title of a property. Extensions beyond 120-days may be granted when the applicant can demonstrate that all delays in applying for the water permit were beyond his/her control, and that the applicant submitted an application to the jurisdiction within the 120 days following the transfer of ownership. To qualify for a Retrofit Credit under this provision, an extension of time to meet the District's conservation requirements must be requested prior to the transfer of title using the Water Conservation Certification form.

E. A permit application based upon reuse of Retrofit Credits allowed by this Ordinance shall require approval of the city or county staff vested with the authority to release water from the Jurisdiction's allocation. Credit shall not be given for retrofits required as a condition of a previous water permit, expansion, transfer of title or water rationing variance.

F. Use of a Retrofit Credit shall be accounted for by the District for each jurisdiction and shall be deducted from the jurisdiction's next available water allocation. Retrofit Credits shall be approved on a case-by-case basis by the local jurisdiction prior to issuance of a Water Permit.

G. Each jurisdiction shall be limited to reinvestment of Retrofit Credits not-to-exceed ten acre-feet. The maximum use of ten acre-feet shall include all retrofit credit reinvested under Ordinance No. 74.

H. There shall be no connection charge assessed for the capacity of water used pursuant to any Retrofit Credit. Connection charges, however, shall apply to the capacity for water use which exceeds the Retrofit Credit, or for any expansion of use following the expiration of the Retrofit Credit. No refund shall accrue by reason of water use reduction, or abandonment of capacity, whether or not reflected by a Retrofit Credit. Processing fees shall apply to permits issued using a Retrofit Credit.

Section Six: Accounting for Reductions in Water Savings.

Each water permit based upon a Retrofit Credit allowed by this Ordinance shall be quantified to enable the accurate accounting of future water conservation within the Cal-Am water distribution system. The amount of water which is placed back into service shall be quantified by jurisdiction, and that quantity shall be deducted from the next available water allocation of that jurisdiction. Each jurisdiction shall be limited in the amount of water allowed for reinvestment under this Ordinance. Each jurisdiction may allow Retrofit Credits to a maximum of ten acre-feet.

Section Seven: Effective Date.

This Ordinance shall be given effect at 12:01 a.m., July 1, 1998.

Section Eight: Review and Sunset Provision for this Ordinance.

The standards enacted by this Ordinance to allow reinvestment of retrofit credits shall sunset at 12:01 a.m. on September 30, 1998.

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. 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 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 Potter, and second by Director Chesshire, the foregoing Ordinance is adopted upon second reading this 29th day of June, 1998, by the following vote:

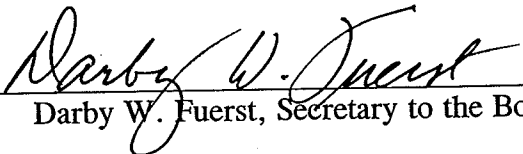
AYES: Directors Potter, Chesshire, Ernst, Hughes and Pendergrass

NAYS: Director Ely

ABSENT: Director Edwards

I, Darby W. Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing Ordinance was duly adopted on the 29th day of June, 1998.

Witness my hand and seal of the Board of Directors this 30th day of June, 1998.



Darby W. Fuerst, Secretary to the Board