

MARINA COAST WATER DISTRICT

ORDINANCE NO. 55
AN ORDINANCE ADDING SECTIONS 6.08.090 (E) AND 6.12.040 (D)
OF THE DISTRICT CODE

Be it ordained by the Board of Directors of
Marina Coast Water District
as follows:

Section 1. Authority. This ordinance is enacted pursuant to Sections 30000 and following of the California Water Code.

Section 2. Findings.

- A. This ordinance is considered for action by the Board of Directors at a regularly scheduled and noticed meeting. The agenda was posted in accordance with County Water District Law with opportunity for public review in advance of the meeting and public comment during consideration of the ordinance by the Board.
- B. The Board has requested that transfer of water, recycled water, and sewer capacity credit be specifically addressed within the District's Code.
- C. An addition to the District's Code which defines the transferability of water, recycled water and sewer capacity credit will not require or induce any physical changes to the environment.
- D. Based upon the above findings, the District's legal counsel advises, and the Board finds, that this ordinance is not a "project" for the purposes of the California Environmental Quality Act ("CEQA"), pursuant to Public Resources Code Section 21065 and Section 15378(b)(2) of the State CEQA Guidelines codified at 14 CCR §15378 and that actions taken pursuant to this ordinance are statutorily exempt from CEQA according to Title 14 California Code of Regulations 15269.
- E. The District has duly mailed notice of the meeting to consider adoption of this ordinance to any person or entity requesting such notice in writing. Any such written requests are on file with the District.

Section 3. Purpose Of Ordinance. The purpose of this ordinance is to amend the District Code by adding District Code Sections 6.08.090 (E) and 6.12.040 (D).

Section 4. Water and Sewer Fees and Charges. Sections 6.08.090 (E) and 6.12.040 (D) of the District Code are hereby adopted to read as follows:

6.08.090 Capacity charges for new or modified potable and recycled water service connections.

E. A parcel of land that has/had a water service connection to the District's potable and/or recycled water system, on record with the District, is considered to have capacity credit. A residential water service connection shall be deemed to have one (1) EDU of water capacity unless the District has records which show a greater amount. Capacity for a commercial water service connection is determined by Appendix C. All capacity credit is restricted to the parcel of land with the existing water service connection and cannot be transferred from one parcel to another unless an agreement with the District was in effect prior to 13th day of December, 2012 the effective date of this ordinance or as follows:

1. A single owner of parcels which touch along a parcel line or at a point with one or more EDUs, can transfer capacity credit throughout those parcels only, and must indicate the specific capacity credit to the parcel at the time of modified service.
2. If one parcel with one or more EDUs is subdivided into smaller parcels, the capacity credit shall be allocated to one parcel or divided between parcels in conjunction with the Land Use Jurisdiction through the subdivision process. However, no less than one EDU may be allocated to any one parcel.

6.12.040 Capacity charge for new and modified sewer service connection

D. A parcel of land that has/had a sewer service connection to the District's sewer collection system, on record with the District, is considered to have capacity credit. A residential sewer service connection shall be deemed to have one (1) EDU of sewer capacity unless the District has records which show a greater amount. Capacity for a commercial sewer service connection is determined on the basis of existing "fixture units." All capacity credit is restricted to the parcel of land with the existing sewer service connection and cannot be transferred from one parcel to another unless an agreement with the District was in effect prior to 13th day of November, 2012 the effective date of this ordinance or as follows:

1. A single owner of parcels which touch along a parcel line or at a point with one or more EDUs, can transfer capacity credit throughout those parcels only, and must indicate the specific capacity credit to the parcel at the time of modified service.
2. If one parcel with one or more EDUs is subdivided into smaller parcels, the capacity credit shall be allocated to one parcel or divided between parcels in conjunction with the Land Use Jurisdiction through the subdivision process. However, no less than one EDU may be allocated to any one parcel.

Section 5. Effective Date. Section 6.08.090(E) of the District Code shall be in full force and effect thirty (30) days from and after the date of adoption. Section 6.12.040(D) of the District Code shall be in full force and effect immediately upon adoption in accordance with section 31105(a) of the Water Code.

Section 6. Publication and Posting. Within 10 days after adoption, the district shall publish once in full in a newspaper of general circulation, printed, published and circulated in the district.

Section 7. Notice of Exemption Notice of Determination. The Secretary is authorized and directed to give due notice of exemption of this ordinance from the provisions of CEQA, pursuant to Title 14, California Code of Regulations, section 15062.

Section 8. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, or superseded by some other provision of law, such provisions shall be severed from and shall not affect the validity of the remaining provisions of this ordinance. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any other part thereof be unconstitutional or invalid, or superseded by some other provision of law. The parts of this ordinance which are not unconstitutional, invalid, or superseded shall remain in full force and effect and shall be enforced according to their terms.

Section 9. Interpretation. Words and Phrases used in this ordinance shall be read conjunctively with and shall have the same meaning as in prior district ordinances and the District Code, unless specifically changed by this ordinance or unless the context requires some other construction. If there is any inconsistency between this ordinance and prior provisions, this ordinance shall control.

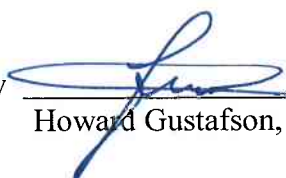
On motion of Director Nishi, seconded by Director Lee; the foregoing Ordinance is enacted and shall take effect upon adoption by the following roll call of the Board:

Ayes: Shriner, Lee, Nishi, Gustafson

Nays: None

Absent: Burns

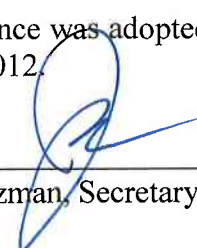
Abstained: None

By  _____
Howard Gustafson, Vice President

ATTEST:  _____
Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was adopted and approved by the Board of Directors at a special meeting on November 13, 2012.

 _____
Jim Heitzman, Secretary