

**DRAFT
ORDINANCE NO. 176**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RULES 11, 21, 24, 25.5, 60, 64, 141, 143, AND 144**

FINDINGS

1. The Monterey Peninsula Water Management District was created to address ground and surface water resources in the Monterey Peninsula area, which the Legislature found required integrated management, and was endowed with the powers set forth in the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, found at West’s Water Code, Appendix, Section 118-1, et seq.).
2. The Monterey Peninsula Water Management District has adopted and regularly implements water conservation and efficiency measures which, inter alia, set standards for the installation of plumbing fixtures in New Construction, and requires retrofit or replacement of existing plumbing fixtures upon Change of Ownership, Change of Use, and Expansion of Use, and for existing Non-Residential uses. The Monterey Peninsula 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 Monterey Peninsula Water Management District has found and determined that it is in the best interests of the Monterey Peninsula Water Management District and its inhabitants to define, implement and enforce water efficient plumbing standards and requirements for the conservation of Potable water supplies. Retrofit or replacement of existing plumbing fixtures lessens consumption of the limited water resources available on the Monterey Peninsula. Installation of water efficient plumbing fixtures reduces the burden of new, expanded or modified uses on the water resources.
4. Rule 11, Definitions, is amended to add definitions for “Accredited Institution of Higher Education Site” and “Jurisdiction Site” and to amend the definitions for “Parcel” and “Site.”

5. Rule 21, Application for Permit to Connect to or Modify a Connection to a Water Distribution System, is amended to clarify that an amended Water Permit is required when there are changes to the fixture count or Water Use Capacity of an active permit.
6. Rule 24, Table 2: Non-Residential Water Use Factors is amended to require additional Water Use Capacity for the installation of multiple Showerheads in Visitor-Serving Facilities.
7. Rule 25.5, Water Use Credits and On-Site Water Credits, is amended to correct a mislabeled reference to Rule 25.5-H and to clarify that eight years of water records shall be submitted to document historic consumption. The current Rule is contradictory and contains reference to both eight years and ten years of water records.
8. Rule 25.5, Water use Credits and On-Site Water Credits, is amended to allow recorded documentation of Water Credit on a Parcel when new Assessor's Parcel Numbers are assigned to the Site and the previous Assessor's Parcel Number becomes inactive.
9. Rule 60-M, Refunds of Fees and Charges is amended to specify how a refund is issued when the party who initially paid a fee is unknown.
10. Rule 64, Water Distribution System User Fees, is amended as the text of the Rule was superseded by Ordinance Nos. 29, 32, 36, 37, 41, 51, 55, 58, 61, 67, 78, 82, 123, and 138.
11. Rule 141, Rebates, is amended to add a Rebate for removal of a whirlpool bathtub in a Visitor-Serving Facility. Removal of whirlpool bathtubs is encouraged due to the high water use associated with cleaning the whirlpool pipes of soaps and oils.
12. Rule 141, Rebates, is amended to establish a process for consideration of Non-Residential Rebates for water saving technology not listed in Rule 141.
13. Rule 143, Water Efficiency Standards for Existing Non-Residential Uses, is amended to set a standards for Non-Residential Clothes Washers that are unable to comply with the 5.0 Water Factor.
14. Rule 144-C, Retrofit Exemptions, is deleted as the exemption in the rule is no longer applicable.

15. This Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the 2016 Rule Amendment Ordinance II of the Monterey Peninsula Water Management District.

Section Two: Purpose

The Monterey Peninsula Water Management District enacts this ordinance to address certain actions necessary to process and issue Water Permits and Water Distribution System Permits and to clarify permitting and conservation requirements.

Section Three: Amendment of Rule 11, Definitions

The following definitions in Rule 11 shall be amended as shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~).

1. ***ACCREDITED INSTITUTION OF HIGHER EDUCATION SITE*** - “***Accredited Institution of Higher Education Site***” shall mean all facilities and properties owned by a single regional, national faith-related, national career-related or programmatic accreditor that is or has been recognized by the Council for Higher Education Accreditation (CHEA) or the U.S. Department of Education (USDE) or both that is located within the MPWMD and that is supplied water by California American Water.
2. ***JURISDICTION SITE*** - “***Jurisdiction Site***” shall mean all facilities and properties owned by a single Jurisdiction that are located within the MPWMD and that are supplied water by California American Water.
3. ***PARCEL*** – “***Parcel***” shall mean any unit of land which qualifies as a Parcel ~~or lot~~ under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other Parcel (or are separated only by a road or easement), and (2) which have identical owners, and (3) ~~which~~ have an identical present use; ***or (4) are an Accredited Institution of Higher Education Site, a Jurisdiction Site, or a Public***

School District Site. The term “Parcel” shall be given the same meaning as the term “Site”.

4. SITE -- “Site” shall mean any unit of land which qualifies as a Parcel ~~or lot~~ under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other Parcel (or are separated only by a road or easement), and (2) which have identical owners, and (3) ~~which~~ have an identical present use; *or (4) are an Accredited Institution of Higher Education Site, a Jurisdiction Site, or a Public School District Site.* The term “Site” shall be given the same meaning as the term “Parcel.”

Section Four: Amendments to Rule 21-B, Application for Permit to Connect to or Modify a Connection to a Water Distribution System

Rule 21-B-1 and 21-B-2 shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~) to clarify credit assignment upon subdivision/sale.

A. APPLICATION FOR PERMIT TO CONNECT TO OR MODIFY A CONNECTION TO A WATER DISTRIBUTION SYSTEM

Each application for a Water Permit shall follow the process set forth in Rule 23. A proper Applicant for a Water Permit may be the prospective User of the proposed or existing Connection as the real party in interest, the property owner, or any agent thereof. The application for a Water Permit to Connect to or modify a water use Connection shall be deemed complete when the Applicant submits all of the following:

1. A Water Release Form pertaining to the Site on which the water use shall occur shall be signed by the authorized official of the applicable Jurisdiction. When the completed ~~P~~project has fewer fixture units than the number permitted (Residential Water Permits), or has a smaller Water Use Capacity than permitted (Non-Residential Water Permits), the Applicant shall not be required to secure the signature of the authorized official of the applicable Jurisdiction on the Water Release Form *to amend the Water Permit*. It shall be the responsibility of the Jurisdiction to complete any applicable Environmental Review on a Project prior to authorizing a Water Permit release via the Water Release Form.

2. Complete Construction Plans that reflect water use pursuant to Tables 1 or 2 of Rule 24. ***The Applicant shall amend the Water Permit to reflect together with any amendment, addition, or modification of to the water fixtures and/or Water Use Capacity these plans which may be made prior to use or occupancy of the Pproject, and any plans which may be submitted to the Jurisdiction for land use or building approvals.***

Section Five: Amendments to Rule 24, Table 2: Non-Residential Water Use Factors

- A. Rule 24, Table 2: Non-Residential Water Use Factors (Attachment A), shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~) to add a factor for multiple Showerheads in Visitor-Serving Facilities.

Section Six: Amendments to Rule 25.5, Water Use Credits and On-Site Water Credits

- A. Rule 25.5-A shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~) to clarify credit assignment upon subdivision/sale.
 - A. Except where a Water Permit has been abandoned, expired, Revoked, Suspended, or canceled under these Rules, a Person may receive a Water Use Credit for the permanent abandonment of some or all of the prior water use on that Site by one of the methods set forth in this Rule. Water Use Credits shall be documented by written correspondence between the District and the property owner, and shall remain valid unless prohibited by this Rule. Water Use Credits shall not be documented by notice on a property title, except as specified in Rule 25.5-~~GH~~. Except as allowed by Rule 28, Water Use Credits shall not be transferable to any other Site.
- B. References to submitting ten (10) years of water records to document previous consumption in Rule 25.5-F-2, 25.5-F-4-d (1) and (2) shall be changed to eight (8) years. The rule currently is inconsistent and lists both eight and ten years.
- C. Rule 25.5-H shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~) to clarify credit assignment upon subdivision/sale.
 - H. When a Water Use Credit on a Site results from demolition of a building that straddled a lot line the property owner shall specify in writing the quantity of

water credit assigned to each of the lots formerly occupied by that building. *When a Site with a valid documented Water Use Credit is assigned new Assessor's Parcel Numbers and the original Assessor's Parcel Number becomes inactive, the Site owner shall specify in writing the quantity of water credit assigned to each of the Parcels.* ~~This~~ *Such* designation shall be recorded upon the title of each of the lots *Parcel*.

Section Seven: Amendments to Rule 60-M, Refunds of Fees and Charges

Rule 60-M shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~) for consistency with Rule 24-F, Capacity Fee Refunds.

M. REFUNDS OF FEES AND CHARGES

Fees and charges pursuant to Regulation VI are paid to or due the District in consideration of, and as reimbursement for, District incurred costs and expenses relating to the administration and processing of applications, Permits, variances, appeals, notices, investigations, and District enforcement activities. These include, but are not limited to, costs and expenses incurred by the District in planning for, acquiring, reserving, protecting, and maintaining Capacity in present or future water distribution facilities, water resources, and conservation activities. At the conclusion of any activity (e.g. issuance or cancellation of a Permit, conclusion of an enforcement action, or any other final action on a matter) the General Manager may refund remaining fees or charges paid by the Applicant to the extent the remainder exceeds costs or expenses incurred by the District for that matter. Requests for refunds shall be in writing, include a clear reference to the Water Permit number or otherwise identify the matter, and state clearly the reason a refund has been requested. This provision authorizes the General Manager to calculate and issue a refund to the extent that the remainder exceeds costs or expenses incurred by the District for that matter, but shall not confer a right upon any Applicant to receive a refund. Any refund shall be determined as a delegated exercise of the General Manager's discretion. Any refund shall be made solely to the party who initially paid the fee or charge *when that party's current address is known, or the refund shall be made to the current title holder of the property.*

Section Eight: Deletion of Rule 64

Rule 64 (Ordinance No. 22) shall be deleted as it has no current standing. Rule 64 was superseded by Ordinance Nos. 29, 32, 36, 37, 41, 51, 55, 58, 61, 67, 78, 82, 123, and 138.

Section Nine: Amendments to Rule 141, Rebates

Rule 141, Rebates, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

A. Rule 141-A, Qualifying Devices, shall be amended to add:

26. Removal of whirlpool bathtubs in Visitor-Serving Facilities.

27. Non-Residential Rebates for technology not listed in Rule 141 shall be considered on a case-by-case basis by the Water Demand Committee. The Water Demand Committee shall make a recommendation to the Board.

B. Rule 141-B, Table XIV-1, Rebate Amounts, shall be amended to add:

Non-Residential Rebates for technology not shown on Table XIV-1 shall be considered on a case-by-case basis by the Board.

C. Rule 141-B, Table XIV-1, Rebate Amounts, shall be amended to add:

Removal of whirlpool bathtubs in Visitor-Serving Facilities - \$250.

Section Ten: Amendments to Rule 143-F, Water Efficiency Standards for Existing Non-Residential Uses

Rule 143-F, Water Efficiency Standards for Existing Non-Residential Uses, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

F. All Non-Residential Clothes Washers shall meet the definition of High Efficiency Clothes Washer rated with a Water Factor of 5.0 or below by December 31, 2013. *Clothes Washers that do not comply with the 5.0 Water Factor shall be programmed by a manufacturer/vendor technician to only function on the low water setting (non-user selected setting). A written statement shall be provided to MPWMD by the manufacturer/vendor's technician stating that the machines have been*

programed to only use the low water setting and that there is no way to manipulate the water usage via a user setting. This statement shall be maintained by MPWMD.

Section Eleven: Amendments to Rule 144-C, Retrofit Exemptions

Rule 144-C, Retrofit Exemptions, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

- C. ~~RETROFIT EXEMPTIONS When a Site has ULF toilets that were installed prior to December 31, 2012, those toilets shall be exempt from this rule until December 31, 2016. This exemption shall not apply to toilets required to be replaced with lower flush volume fixtures as a condition of a Water Permit or other District action.~~

Section Twelve: Publication and Application

The provisions of this ordinance shall cause the amendment and republication of Rules 11, 21, 25.5, 60, 64, 141, and 143 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Thirteen: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. January 1, 2017.

This Ordinance shall not have a sunset date.

Section Fifteen: Severability

If any subdivision, 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 _____, and second by Director _____, the foregoing ordinance is adopted upon this ____ day of _____, 2016, by the following vote:

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, 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 ____ day of _____, 2016.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2016.

David J. Stoldt, Secretary to the Board

TABLE 2: NON-RESIDENTIAL WATER USE FACTORS

Group I 0.00007 AF/SF

Auto Uses	Retail	Warehouse	Dental Clinic	Office	Bank	Supermarket
Church	Nail Salon	Family Grocery	Medical Clinic	Wine Tasting Room	Fast Photo	Convenience Store
Dry Cleaner (No On-Site Laundry)			Veterinary Clinic	School	Gym	

Group II 0.0002 AF/SF

Users in this category prepare and sell food/beverages that are primarily provided to customers on disposable tableware. Food with high moisture content and liquid food may be served on reusable tableware. Pizza must be served on reusable platters or on disposable plates. Glassware may be used to serve beverages.

Bakery	Pizza	Coffee House	Ice Cream Shop	Dry Cleaner (On-Site Laundry)
Catering	Deli	Bistro	Sandwich Shop	

Group III

Assisted Living (more than 6 beds) ¹	0.085 AF/Bed
Beauty Shop/Dog Grooming	0.0567 AF/Station
Child/Dependent Adult Day Care	0.0072 AF/Person
Dormitory ²	0.040 AF/Room
Laundromat	0.2 AF/Machine
Meeting Hall/Banquet Room	0.00053 AF/SF
Motel/Hotel/Bed & Breakfast	0.1 AF/Room
w/Large Bathtub (Add to room factor)	0.03 AF/Tub
w/Each additional Showerhead beyond one (Add to room factor)	0.02 AF/Showerhead
Irrigated Areas beyond ten feet of any building	ETWU
Plant Nursery	0.00009 AF/SF Land Area
Public Toilet	0.058 AF/Toilet
Public Urinal	0.036 AF/Urinal
Zero Water Consumption Urinal	No Value
Restaurant (including Bar/Brewpub Seats)	0.02 AF/Interior Restaurant Seat
Exterior Restaurant Seats above the “Standard Exterior Seat Allowance” ³	0.01 AF/Exterior Restaurant Seat
Exterior Restaurant Seats within the “Standard Exterior Seat Allowance	No Value
Restaurant (24-Hour and Fast Food)	0.038 AF/Interior Restaurant Seat
Self-Storage	0.0008 AF/Storage Unit
Skilled Nursing/Alzheimer’s Care	0.12 AF/Bed
Spa	0.05 AF/Spa
Swimming Pool	0.02 AF/100 SF of Surface Area
Theater	0.0012 AF/Seat

Group IV - MODIFIED NON-RESIDENTIAL USES

Users listed in this category have reduced water Capacity from the types of uses listed in Groups I-III and have received a Water Use Credit for modifications. Please inquire for specific property information.

All New Connections: Refer to Rule 24-B, Exterior Non-Residential Water Demand Calculations

Notes: Any Non-Residential water use which cannot be characterized by one of the use categories set forth in Table 2 shall be designated as “other” and assigned a factor which has a positive correlation to the anticipated Water use Capacity for that Site.

¹ Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.

² Dormitory water use at educational facilities is a Residential use, although the factor is shown on Table 2.

³ See Rule 24-B-1 and Rule 25.5 for information about the “Standard Exterior Seat Allowance”.