

EXHIBIT 17-A

**DRAFT
ORDINANCE NO. 178**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ADDING WATER EFFICIENCY REQUIREMENTS FOR MULTI-FAMILY RESIDENTIAL
SITES AND COMMON INTEREST PROPERTIES AND
ALLOWING SUB-METERING OF ACCESSORY DWELLING UNITS**

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. Senate Bill 407 (Padilla) approved by the Governor on October 11, 2009, requires owners of Multi-Family Residential and commercial real property built prior to January 1, 1994,

- to replace older water fixtures with new water efficient fixtures by January 1, 2019.
5. Ordinance No. 178 incentivizes retrofits completed prior to January 1, 2019, when Senate Bill 407 (Padilla) requires certain retrofits. Property owners/managers can use the Rebate Program to facilitate conversion of older toilets to High Efficiency or Ultra High Efficiency Toilets and replacement of older Clothes Washers with High Efficiency Clothes Washers.
 6. Water savings from Multi-Family Residential retrofits is estimated to save up to 60 percent of the pre-retrofit water use.
 7. Common Interest Development (CID) is real property developments where property owners share a common set of financial obligations, property and easement rights established in a set of recorded restrictions. CID is a type of development with common areas that may contain water fixtures, appliances and irrigation. CID do not change full ownership and therefore are not subject to MPWMD Rule 142.
 8. It is in the interest of the District to bring about water conservation retrofits that affect all water Users to reduce present use and future demand.
 9. Common Laundry Rooms provide excellent opportunities for water conservation because the frequency of use for each Clothes Washer is much greater than in-home machines. While an in-home machine averages only 4 to 6 loads per week, common area machines often wash 20 to 50 loads per week per Clothes Washer.
 10. Most coin-operated Clothes Washers have a Water Factor rating of 12 to 14 (top loaders); using 35 to 45 gallons per load. Newer water efficient models have a Water Factor rating of 4 to 8; using as little as 12 gallons per load.
 11. Senate Bill No. 1069 (Wieckowski) has increased interest in development of Accessory Dwelling Units (ADU) as a way for Jurisdictions to meet their General Plan Housing Elements. Senate Bill No. 1069 amended certain sections of the Government Code and became effective January 1, 2017. The amendments encourage additional rental housing stock in single-family or multifamily residential zones by “prohibiting a local agency from requiring an applicant for this permit to install a new or separate utility connection directly between the unit and the utility or imposing a related connection fee or capacity charge.”
 12. SB 1069 applies to “a city, county, or city and county, whether general law or chartered.” The Water Management District is not subject to the requirements of SB 1069.

13. The District requires separate Water Meters maintained by the Water Distribution System Operator for every User. A “User” is defined as a residence (i.e., Dwelling Unit), commercial enterprise, or industrial enterprise. Separate meters have been required for new Users since 1981. Separate meters promote conservation by giving each User accountability for their water use and it facilitates enforcement of water rationing. Tiered rates are specifically designed to send price signals to the individual water User.
14. At the request of the District’s Technical Advisory Committee and supported by the District’s Water Demand Committee, Ordinance No. 178 creates a new class of User that is exempt from the requirement to install a separate Water Meter maintained by the Water Distribution System Operator. One ADU per Site will be exempt from the requirement, and the ADU will be required to have water use measured through a permanent in-line Water Meter. This approach is less costly than requiring a separate Water Meter from the ADU to the utility, but allows for accurate counting of water use within the structure. ADU approval will be subject to water availability and payment of Capacity Fees.
15. Ordinance No. 178 is categorically exempt from California Environmental Quality Act (CEQA) under Section 15301, Class 1, Existing Facilities (Multi-Family Residential Site retrofit requirements) and Section 15303, Class 3, New Construction or Conversion of Small Structures.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the 2017 Water Efficiency Requirements for Multi-Family/Common Interest Developments and the Accessory Dwelling Unit Metering Ordinance of the Monterey Peninsula Water Management District.

Section Two: Purpose

The Monterey Peninsula Water Management District enacts this ordinance to bring about water efficiency on Multi-Family Residential Sites and Common Interest Developments and to allow sub-metering for Accessory Dwelling Units.

Section Three: Amendments to Rule 11 – Definitions

The definition of Accessory Dwelling Unit shall be added to Rule 11 as shown in bold italics (***bold italics***). The definition of Common Laundry Room shall be amended as shown in ~~strikeout~~ (~~strikeout~~).

ACCESSORY DWELLING UNIT -- Accessory Dwelling Unit (“ADU”) shall mean a secondary Dwelling Unit that is not intended for sale separate from the primary residence. An Accessory Dwelling Unit is a habitable Dwelling Unit added to, created within, or detached from a primary Single-Family Dwelling and contained within the same lot.

COMMON INTEREST DEVELOPMENTS - “Common Interest Developments” shall mean community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code ~~Section 1354~~ ***Article 2. Definitions [4075 - 4190] (Article 2 added by Stats. 2012, Ch. 180, Sec. 2.)***

COMMON LAUNDRY ROOM – “Common Laundry Room” shall mean a room where one or more Clothes Washers are located and available for use by ~~all~~ occupants of a Multi-Family Residential Site ***or Common Interest Development.***

HIGH EFFICIENCY TOILET (HET) – “High Efficiency Toilet” or “HET” shall mean a toilet ***designed with that has a maximum*** an effective flush volume of ~~20 percent below a 1.6-gallons per flush maximum or less, equating to a maximum of 1.28 gallons per flush~~ ***and that is labeled by the U.S. Environmental Protection Agency’s WaterSense program.*** (Note: The

HET category includes dual-flush fixtures, which have been determined to meet the volume requirement by defining the effective flush volume as the average volume achieved with one full flush and two reduced flushes.)

Section Four: Amendments to Rule 23 – Action on Application for a Water Permit to Connect to or Modify a Connection to an Existing Water Distribution System

Rule 23-A-1-(i)-(6) shall be added as shown in bold italics (*bold italics*). This provision shall be retroactive to allow amendment of Water Permits for Accessory Dwelling Units issued after January 1, 2017. Rule 23-A-1-(i) shall be amended to add (6) to the list of exceptions.

- (6) *The General Manager shall allow permanent sub-metering of all water use into one Accessory Dwelling Unit, including hot and cold water supply. The application for sub-metering an Accessory Dwelling Unit will be considered by the General Manager when the Jurisdiction confirms there is no potential that the sub-metered User could be located on a separate Site through subdivision or transfer of ownership of a portion of the Site.*

Section Five: Addition of Rule 142-F – Water Efficiency Standards for Multi-Family Residential Sites and Common Interest Developments

The following text shall be added to as Rule 142-F, as shown in bold italics (*bold italics*):

- F. *Water Efficiency Standards for Multi-Family Residential Sites and Common Interest Developments:*
 - 1. *Multi-Family Residential Sites and Common Interest Developments with four or more Dwelling Units, shall meet or exceed the following water efficiency standards before January 1, 2019¹:*
 - a. *High Efficiency or Ultra High Efficiency Toilets shall be installed. Multi-Family Residential Sites and Common Interest Developments with Ultra Low Flush Toilets installed prior to*

¹ *Individually owned condominiums and cooperatives that are subject to Rule 142-E shall be exempt from this requirement.*

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January 1, 2014, shall be exempt from this toilet retrofit requirement.;

- b. Urinals shall be at a minimum High Efficiency Urinals (if installed prior to January 1, 2016). Newly installed Urinals shall be Pint Urinals or Zero Water Consumption Urinals;*
- c. Showerheads, Rain Bars, or Body Spray Nozzles must be designed and manufactured to emit a maximum of 2.0 gallons per minute of water at 60 psi;*
- d. Washbasin faucets shall emit a maximum of 1.2 gallons of water per minute at 60 psi;*
- e. Kitchen Sink, Utility Sink, and Bar Sink faucets shall emit a maximum of 1.8 gallons of water per minute at 60 psi. Faucets may have the capability to temporarily increase flow to 2.2 gallons per minute for filling pots and pans, but must default back to a maximum Flow Rate of 1.8 gallons per minute measured at 60 psi;*
- f. Common Laundry Rooms. By January 1, 2019 all Clothes Washers installed in Common Laundry Rooms within the District shall meet the definition of High Efficiency Clothes Washer rated with a Water Factor of 5.0. Washer/extractors 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 programmed 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.*
- g. Clothes Washers located inside Dwelling Units should be encouraged to replace Clothes Washers with High Efficiency Clothes Washers;*

- h. Water Pressure Regulating Devices shall be installed and maintained to maintain water pressure between 50 and 65 psi.*
 - i. Automatic Irrigation Controllers properly adjusted to adhere to the District's Stage 1 Water Conservation Requirements (Rule 162) shall be installed, used, and maintained.*
- 2. The owner (or his authorized agent) of a Multi-Family Residential Site or Common Interest Development manager shall certify compliance with this regulation by one of the following methods:**
- a. Provide the District with a District-certified inspection report that provides all Site information required by the District and that verifies installation of Low Water Use Plumbing Fixtures throughout the Site, as required by Regulation XIV and Regulation XV; or*
 - b. Provide documentation to the District from a District-certified city or county building official that provides all Site information required by the District and that certifies installation of Low Water Use Plumbing Fixtures throughout the Site, as required by Regulation XIV and Regulation XV; or*
 - c. Provide owner/association certification that plumbing fixtures throughout the Site have been retrofitted in compliance with Regulation XIV and Regulation XV. The owner, his authorized agent, or CID manager shall forward a copy of this certification, together with a dated copy of the purchase receipt for each Low Water Use Plumbing Fixture and a dated copy of the labor contract or a statement of self-installation which evidences complete installation to the District. The District may verify certification by an onsite inspection.*

Section Six: Publication and Application

The provisions of this ordinance shall cause the amendment and republication of Rules 11, 23, and 142 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Seven: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. 30 days after second reading.

This Ordinance shall not have a sunset date.

Section Eight: 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 _____, 2017, 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 _____, 2017.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2017.

David J. Stoldt, Secretary to the Board