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ORDINANCE NO. 180

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
CLARIFYING RULES RELATED TO THE REBATE PROGRAM, PERMITS AND
ENFORCEMENT OF THE DISTRICT'S RULES**

FINDINGS

1. The Monterey Peninsula Water Management District (District or 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 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. This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Existing Facilities, for modifications to Rule 141, as these amendments relate to replacement of existing facilities with less water intensive uses. The remainder of the proposed ordinance are policy clarifications and do not meet the definition of a project under CEQA. CEQA Guideline §15378 (a) defines a "project" as an action that has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the

Section Two: **Purpose**

This ordinance amends and clarifies Rules related to

Section Three: **Amendments to Rule 11**

Rule 11, Definitions, shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

1. ~~MUNICIPAL UNIT~~ — “~~Municipal Unit~~” means the Cities of Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City and Seaside and the portion of the County of Monterey inside the District.
2. ~~MUNICIPAL UNIT ALLOTMENTS~~ — “~~Municipal Unit Allotment~~” means the maximum quantity of water that can be delivered by a particular Water Distribution System within a Municipal Unit in one water year beyond which Permits for Creation or Establishment and Permits for Expansion of a Water Distribution System are not authorized for approval in that Municipal Unit.
3. USER - “User” means a customer or consumer of water delivered by a Water Distribution System. User does not include any Owner or Operator of a Water Distribution System. Each ~~residence~~*Dwelling Unit, and each Non-Residential enterprise or Dedicated Irrigation Meter* ~~commercial enterprise, or industrial enterprise~~ shall be deemed a separate and distinct User.

Section XX: **Amendment to Rule 20-B, Permits to Connect to or Modify a Connection to a Water Distribution System**

Rule 20-B and Rule 20-B-1 shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face. The remainder of the rule shall remain unchanged.

Before any Person connects to or modifies a ~~water use~~ Connection to a Water

~~Distribution System regulated by the District or to any Mobile Water Distribution System regulated by the District or to any Mobile Water Distribution System, such Person shall obtain a written permit from the District or the District's delegated agent, as described in District Rules 21, 23 and 24. The addition of any Connection and/or modification of an existing water Connection to any Water Distribution System permitted and regulated by the District shall require a Water Permit.~~

~~The following actions require a~~ ***Water Permit is required before taking the following actions:***

1. Any ***installation of or*** change in use, size, ***or*** location, ~~or relocation~~ of a Connection or Water Measuring Device which may allow an Intensification of Use or increased water consumption.

Section XX: Amendments to Rule 22 – Action on Application for Permit to Create/Establish or Amend a Water Distribution System, or Request a Confirmation of Exemption

Rule 22-A-4 shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

Protocol for Level 1 Permit (Non-MPWRS)

The General Manager shall review the application package in the form and manner prescribed in Rules 21 and 22. If the application is determined to be complete, and all criteria specified in Rule 22-A-2 and the Implementation Guidelines are met, the General Manager shall issue a Level 1 Permit that specifies terms and conditions that are consistent with Rule 22. The Level 1 Permit does not set System Limits. However, a mandatory condition of approval shall state, “There shall be no permanent intertie to any other water system that is required to reduce water use,~~;~~ ***and there shall be no intertie to the Main California American Water system that relies on Cal-Am water rights, including for a temporary emergency use,*** until there is full compliance with SWRCB Order WR 95-10 (as amended), compliance with the Seaside Groundwater Basin Adjudication Final Decision of 2006 (as amended), and water is available in the respective Jurisdiction’s Allocation for release to the Parcel(s).” District action is ***discretionary ministerial***, and the application is subject to ***California Environmental Quality Act (CEQA)*** review unless the Project qualifies for a CEQA categorical exemption (CEQA Guidelines Article 19). Notice of the staff action shall be provided to the public via the “Appealable Decisions” section of the District website. The staff determination may be appealed to the MPWMD Board pursuant to Rule 70, “Appeals.”

Section XX: Amendments to Rule 23

1. Rule 23-A-1-i-(4) shall be amended as shown below, with added language as shown in ***bold italic*** type face.

- a. A Site's owner shall have Water Meters installed for each sub-metered User by the Water Distribution System Operator within ninety (90) days of the conclusion of a Connection moratorium. ***It is recommended that the sub-meter(s) be located in*** Once Water Meters maintained by the Water Distribution System Operator have been installed, the deed restriction shall be removed;

2. All Rule 23-B-2-c shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

- c. All New Structures receiving a Water Permit after January 1, 2009, shall have separate water supply lines that tee off ***in the meter box*** after the Water Meter to supply fire suppression service and domestic service as demonstrated in Figure 23-1, unless the User has separate Water Meters maintained by the Water Distribution System Operator for fire and domestic services. This configuration shall facilitate installation of a Flow Restrictor in the domestic service without interfering with the fire suppression service. The General Manager shall have authority to make exceptions to this requirement for Undue Hardship. Exceptions shall be recorded on the property title with notice that rationing enforcement could result in a Flow Restrictor.

Section XX: Amendments to Rule 23.7, Malpas Water Company Entitlement

Rule 23.7 shall be amended by adding the following footnote to the word "purchase" as shown in ***bold italic*** type face:

RULE 23.7 - MALPASO WATER COMPANY WATER ENTITLEMENT

A. MALPASO WATER COMPANY WATER ENTITLEMENT

- 1. The Malpas Water Company Water Entitlement confers on Malpas Water Company, LLC (Malpas Water Company) a Water Entitlement of 80 AFA through the ***Main*** California American Water Company Water Distribution System.

Section XX: Amendments to Rule 24

1. Rule 24-A-3 shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

- k. As a condition to the issuance of any Permit pursuant to this rule, each property owner shall authorize the District to access and use water records related to ~~the past, present and future~~ use of water on the Site for a period of sixty (60) months prior to ~~and following~~ the date the Permit is issued.

2. Rule 24-A-5 shall be replaced with the language shown below in ***bold italic*** type face and the current Rule 24-A-5 shall become Rule 24-A-6. The remainder of Rule 24-A shall be renumbered.

5. ***Access to a Single Bathroom***

When a one Bathroom Dwelling Unit recognized by the Jurisdiction as existing before March 1, 1985 has used a Kitchen Sink for its Lavatory Sink, a Water Permit for a single Lavatory Sink may be issued without a debit to a Jurisdiction's Allocation or a Capacity Fee charge.

3. Rule 24-B-1-b shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

- b. When a Non-Residential Project proposes two or more of the uses set forth in Table 2, each proposed use shall be subject to a separate calculation. By way of example, a motel ***with a*** restaurant would be subject to both the motel use by unit and the restaurant use by seat calculation. ~~Similarly, a gas station with a retail facility would be subject to both the gas station use by pump and the retail use by square footage.~~ Where a proposed use may be designated as more than one category, the category which most accurately depicts projected water use shall be selected or the uses shall be calculated based on the square-footage or other factor for each area in which the use occurs. When the proposed use appears to fall into more than one category, the higher intensity use category shall be chosen.

Section XX: Amendment to Rule 142 – Water Efficiency Standards

1. Rule 142-A shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

A. Water Efficiency Standards.

1. *All Sites supplied with water from a Water Distribution System regulated by the District shall comply with these standards.*
 12. All New Construction of New Structures shall install and maintain plumbing fixtures and conservation standards as set forth in this Rule.
 23. No plumbing fixture shall be replaced with fixtures which allow greater water use.
 34. All new and replacement water fixtures shall comply with then-current California plumbing and energy standards/codes when more restrictive than the District's.
2. Rule 142-D and E shall be amended with the addition of the language shown below in ***bold italic*** type face.
- # ***New installations of dipper wells shall be with water efficient fixtures that do not continually release water down the drain.***

Section Seven: 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 Eight: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading.

This Ordinance shall not have a sunset date.

Section Nine: 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 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 by Director _____, and second by Director _____, the foregoing ordinance is adopted upon this _____ day of _____, 2018, 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 _____, 2018.

Witness my hand and seal of the Board of Directors this _____ day of _____ 2018.

David J. Stoldt, Secretary to the Board

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Attachment 1 to MPWMD Resolution No. 2017-16

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	Gym
Dry Cleaner (no on Site laundry)			Veterinary Clinic	School	Convenience Store	

Group II 0.0002 AF/SF

Most 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 (with on Site laundry)
Catering	Deli	Bar¹	Sandwich Shop	

Group III

Assisted Living (more than 6 beds) ²	0.085 AF/Bed
Beauty Shop/Dog Grooming	0.0567 AF/Station
Child/Dependent Adult Day Care	0.0072 AF/Person
Dormitory ³	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" ⁴	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 *ABC Licensed Premises Diagram area shall be used for calculation of square-footage.*

² Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.

³ Dormitory water use at educational facilities is a Residential use, although the factor is shown on Table 2.

⁴ See Rule 24-B-1 and Rule 25.5 for information about the "Standard Exterior Seat Allowance".

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TABLE 2: NON-RESIDENTIAL WATER USE FACTORS

Group I 0.00007 AF/SF

Group I are low water Users where water is primarily used for employee hygiene and minimal janitorial uses. Examples are offices, warehouses, and retail businesses.

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. Glassware may be used to serve beverages. Users in this category are not full-service restaurants.

Group III

Assisted Living (more than 6 beds) ²	0.085 AF/Bed
Bar (limited food/not a restaurant)	0.0002 AF/SF ¹
Beauty Shop/Dog Grooming	0.0567 AF/Station
Child/Dependent Adult Day Care	0.0072 AF/Person
Dry Cleaner w/on-Site laundry	0.0002 AF/SF
Dormitory ³	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
Nail Salon	0.00007 AF/SF
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
Recreational Vehicle Water Hookup	0.1 AF
Restaurant- Full Service (including associated Bar/Brewpub Seats)	0.02 AF/Interior Restaurant Seat
Exterior Restaurant Seats above the "Standard Exterior Seat Allowance" ⁴	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
School or Church	0.00007 AF/SF
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.

Group V - INDUSTRIAL USES

Users in this category use water during the production process for either creating their products or cooling equipment. Industrial water may also be used for fabricating, processing, washing, diluting, cooling, or transporting a product. Water is also used by industries producing chemical products and food products. Industrial uses also include certain hospital uses. Water Use Capacity shall be determined following review of the project's construction and business plans and estimated water use and may be considered for Rule 24 Special Circumstances.

All New Connections: Refer to Rule 142.1 for Landscape 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.

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- ¹ ABC Licensed Premises Diagram area shall be used for calculation of square-footage.
- ² Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.
- ³ Dormitory water use at educational facilities is a Residential use, although the factor is shown on Table 2.
- ⁴ See Rule 24-B-1 and Rule 25.5 for information about the “Standard Exterior Seat Allowance”.