



EXHIBIT 17-A

**DRAFT
ORDINANCE NO. 190**

**AN URGENCY ORDINANCE OF
THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
TEMPORARILY SUSPENDING RULES 20-B-6 AND 24-B-1-i
PERTAINING TO EXTERIOR RESTAURANT SEATING AND THE
RELOCATION/EXPANSION OF GROUP II AND WINE TASTING ROOMS
IN RESPONSE TO ONGOING PANDEMIC PRECAUTIONS**

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. On May 12, 2020, California Governor Gavin Newsom announced California’s long-awaited guidelines for the reopening of restaurants for sit-down dining, including extensive guidelines for physical distancing. These guidelines prompted the District’s adoption of Urgency Ordinance No. 186 to facilitate outdoor dining. This was continued with the urgency adoption of Ordinance No. 188 in April 2021.
4. Outdoor areas for food and beverage service have generally been prioritized over inside seating to minimize exposure of customers in enclosed environments.
5. Jurisdictions have allowed outdoor seating to facilitate social distancing, including shutting down parking spaces and sidewalks to create open air dining areas.

6. Urgency Ordinance No. 186 was adopted in May 2020 to respond to guidelines that required certain businesses to operate outdoors that conflicted with the District’s permanent rules. The circumstances have not been fully reversed by April 2022 and may be reinstated, and until there is no requirement for outdoor food and beverage services in response to the pandemic, the exception made by Ordinance No. 186 needs to remain in place.
7. MPWMD Rule 24 regulates the number of outdoor seats that a Restaurant can have before a Water Permit is required. A Restaurant may have one-half the number of Interior Restaurant Seats for outdoor dining without a requirement for a Water Permit (e.g. “standard exterior seat allowance”). Any seating above the standard exterior seat allowance requires a Water Permit, which may require water from a Jurisdiction’s Allocation or an Entitlement.
8. MPWMD Rule 24 regulates bars and tasting rooms to calculate Capacity based on the User’s California Department of Alcoholic Beverage Control (ABC) map of the area allowed for beverage consumption as shown on the User’s Liquor License. During the Covid-19 emergency, the ABC has allowed bars and wine tasting rooms to expand to outdoor areas, and the District has not enforced this relocation in use. Upon expiration of this ordinance, Water Permits shall be required for Users who amend their ABC permits to allow greater use of outdoor spaces.
9. This ordinance continues the suspension of the standard exterior seat allowance (Rule 24-B-1-i). This suspension allows a full-service restaurant to have two outdoor seats for every lawfully permitted indoor seat in keeping with Finding 11 of Ordinance No. 164 and with the Jurisdiction’s Codes.
10. This ordinance recognizes that certain uses (e.g. wine tasting rooms, bars, etc.) have had to move parts of their operations to outdoor spaces, and the District has not enforced the Water Permit requirement for those relocated uses during the pandemic.
11. This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Existing Facilities, as these amendments relate to permitting and alterations of existing facilities.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as 2022 MPWMD Response to Continued Pandemic Risks.

Section Two: **Purpose**

This ordinance suspends Rule 24-B-1-i for Restaurants that remove Interior Restaurant Seats and increase Exterior Restaurant Seats and suspends enforcement of expansion/relocation of Group II uses and wine tasting rooms that must operate outdoors as a response to changing Covid-19 conditions.

Section Three: **Limited Suspension of Rule 20-B-6**

Rule 20-B-1-i states:

Any Change of Use or any expansion of a Non-Residential use to a more intensive use as determined by Rule 24, with the exception of Temporary Structures and Temporary Exterior Restaurant Seats that are not occupied or in use for longer than thirty (30) consecutive days.

For the duration of this ordinance, a Water Permit shall not be required to relocate or expand Group II businesses and Group I wine tasting to outdoor areas.

Section Four: **Limited Suspension of Rule 24-B-1-i**

Rule 24-B-1-i states:

A Restaurant's Water Use Capacity shall be determined by the maximum Interior Restaurant Seat count authorized by the Jurisdiction and District. Exterior Restaurant Seats may be maintained for al fresco dining without a requirement for a new or amended Water Permit provided the maximum number of Exterior Restaurant Seats does not exceed one-half the number of authorized Interior Restaurant Seats (the "standard exterior seat allowance"). Exterior Restaurant Seating not in compliance with this paragraph shall require a new or amended Water Permit.

For the duration of this ordinance, a Water Permit shall not be required to increase the Exterior Restaurant Seats above the standard exterior seat allowance at Restaurants that have a seat count on file with the District.

Section Five: **Publication and Application**

The provisions of this ordinance shall not cause the republication of the Rules and Regulations of the Monterey Peninsula Water Management District.

Section Six: **Effective Date and Sunset**

This ordinance shall be adopted with urgency and take effect at 12:01 a.m. on April 19, 2022. Insofar as this Ordinance has been enacted as an urgency measure, it shall have no force or effect after April 18, 2023.

Section Seven: **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.

PASSED AND ADOPTED on this XX day of April 2022 on motion by Director _____, and second by Director _____, by the following vote, to wit:

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 an ordinance adopted on XX day of April 2022.

David J. Stoldt, Secretary to the Board