

EXHIBIT 4-A

**DRAFT
ORDINANCE NO. 185**

**AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING DISTRICT RULE 24 TO ALLOW SPECIAL FIXTURE UNIT
ACCOUNTING FOR SECOND BATHROOMS IN EXISTING DWELLING UNITS
AND TO PERMANENTLY ADOPT SUB-METERING REQUIREMENTS AND
EXEMPTIONS FOR ACCESSORY DWELLING UNITS**

FINDINGS

1. The 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. This ordinance expands the second bathroom eligibility to Dwelling Units that existed on May 2001, the date of adoption of the second Bathroom addition.
4. By amending the ordinance to Dwelling Units, the addition of an Accessory Dwelling Unit would not trigger the requirement to debit an Allocation, Entitlement or credit for the second Bathroom protocol. This will facilitate ADUs on Sites where the second Bathroom protocol has been used.
5. This ordinance clarifies the second bathroom allowed by this special fixture unit is to be used only for convenience within the existing Dwelling Unit and not to support an Accessory Dwelling Unit.
6. This ordinance is enacted to facilitate the creation of Accessory Dwelling Units (“ADUs”) which provide required and affordable housing in the Monterey Peninsula Water Management District.

7. The District requires separate Water Meters for each User to promote accountability for water use and to enforce water rationing when needed. The Board has previously adopted a Rule that allows permanent sub-metering of one ADU on a Site, rather than requiring a separate Water Meter by the Water Distribution System Operator.
8. The requirement for sub-metering an ADU becomes a hardship when an ADU is created within an existing structure where plumbing is not designed to sub-meter hot and cold water. A hardship occurs when the ADU is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure.
9. Allowing a limited exemption from the sub-metering requirements for ADUs would not have an adverse effect on enforcement of water rationing. Rule 165 states: “Where two or more Households are served by a Master Meter, it shall be the responsibility of the Water Users to divide the Water Rations among the Water Users.”
10. Allowing this exemption from the metering requirements encourages additional affordable rental housing stock, a priority of the State of California.
11. This ordinance shall be reviewed and approved under CEQA (California Environmental Quality Act) based upon [TO BE DETERMINED].

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the “MPWMD 2020 Second Bathroom and Accessory Dwelling Unit Sub-Metering Clarification Ordinance.”

Section Two: **Purpose**

This ordinance amends the provisions of Rule 24 that allows a second Bathroom for convenience to include all Dwelling Units that existed as of the date the protocol was adopted in 2001 and clarifies that the second Bathroom is not allowed to be used by an Accessory Dwelling Unit. This ordinance also permanently amends Rule 23 as adopted by Urgency Ordinance No. 184 to exempt

existing Residential space or structures that can be converted to Accessory Dwelling Units from the requirement for permanent sub-metering. It also grandfathers existing active construction of ADUs from the requirement.

Section Three: **Amendment of Rule 24: Water Permit Process**

Rule 11 shall be revised as shown in bold italics (*bold italics*) and strikeout (~~striketrough~~):

DWELLING UNIT - “Dwelling Unit” shall mean a *single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation*, ~~single or multiple residences suitable for single household occupancy~~ but shall not refer to non-permanent student or transient housing, the occupancy of which is projected to average 24 months or less.

Section Four: **Amendment of Rule 24-A-3, Second Bathroom Addition**

Rule 24-A-3 shall be revised as shown in bold italics (*bold italics*) and strikeout (~~striketrough~~):

3. Second Bathroom Addition

A distinctive Water Permit protocol shall apply to any Residential application that proposes to add a second Bathroom to ~~an existing Single Family~~ *a Dwelling Unit built before May 2001* ~~on a single family Residential Site~~ that, prior to the application, has less than two Bathrooms.

- a. The second Bathroom protocol shall be limited, and shall apply only to the following water appliances if they are installed in a new second Bathroom as an expansion of an existing ~~Single Family Dwelling Unit~~: (a) a single toilet, and (b) a single Standard Bathtub, or single Shower Stall, or a single standard tub-shower combination, and (c) one or two Washbasins.

- b. The second Bathroom protocol shall further apply ~~on a pro-rata basis~~ to any Residential application that proposes to add one or more of the ~~referenced~~ water *fixtures* ~~appliances~~ *referenced above* to an existing second Bathroom which lacks ~~that same appliance~~ *a fixture* within an existing ~~single family Residential Site~~ *Dwelling Unit* and, prior to the application, has less than two full Bathrooms.

- c. The second Bathroom protocol shall apply only to a ~~Single Family Dwelling~~ ***Unit with less than two Bathrooms*** ~~on a single family Residential Site that had a final building permit as of May 16, 2001.~~
- ~~d. The second Bathroom protocol shall not apply to any Multi Family Dwelling or Multi Family Residential Site as defined by these Rules and Regulations.~~
- ~~e. A valid Water Use Credit for the permanent abandonment of a one Bathroom Single Family Dwelling on a single family Residential Site issued prior to May 16, 2001 shall be regarded as an existing Single Family Dwelling for 120 months following demolition and shall allow the reconstruction of a single family Dwelling with the addition of the water fixtures allowed by this provision as long as the credit is valid.~~
- fd. Water fixtures installed pursuant to this provision shall be installed within the existing Single Family Dwelling Unit. The second Bathroom protocol shall not be used to provide a Bathroom for an Accessory Dwelling Unit, including the addition of a second Bathroom elsewhere in the Dwelling Unit that would allow the original Bathroom to be used by an Accessory Dwelling Unit or when a second Bathroom was removed from the Dwelling Unit and relocated to another Dwelling Unit or building. The protocol was adopted to recognize that the second Bathroom is for convenience and that it does not cause additional water demand. It is not intended to support a new User.***
- ge. Under this second Bathroom protocol, the General Manager shall not debit the Jurisdiction's Allocation for the installation of select ***the*** water fixtures in the second Bathroom.***
- hf. Capacity Fees shall nonetheless be collected for the addition of fixture units in the second Bathroom.***
- ig. No ~~on site, off site or transfer of~~ credit shall be granted for removal or retrofit of any fixture added pursuant to this second Bathroom protocol.***
- jh. Use of the second Bathroom protocol is voluntary. Any ~~property~~ Dwelling Unit installing a second Bathroom pursuant to this provision shall be limited***

to two Bathrooms unless the second Bathroom is permitted by debit to a Jurisdiction's Allocation, ***an Entitlement, or offset by a credit***. A Notice ***and Deed Restriction Regarding*** of The Limitation Of on Use Of Water On Aa Property shall be recorded on the real property as a condition of the Water Permit.

- ki. All Water Permits issued pursuant to this Rule shall include a Notice and Deed Restriction titled "Provide Public Access to Water Use Data" pursuant to Rule 23. In addition, permits utilizing the second Bathroom protocol shall authorize access to water records for the sixty (60) months prior to the date the Water Permit is issued. There shall be no additional charge for this deed restriction.
- lj. The provisions of this second Bathroom protocol shall take precedence and supersede any contrary provision of the Water Management District Rules and Regulations.

Section Five: **Amendment of Rule 23-A-1-i-(6)**

Rule 23-A-1-(i)-(6) 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 remaining provisions of Rule 23 shall remain unchanged by this ordinance. This amendment was temporarily approved by adoption of Urgency Ordinance No. 184, the 2019 Accessory Dwelling Unit Ordinance. Adoption of this ordinance will make the changes permanent.

- (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 An Accessory Dwelling Unit contained within the existing space of a single-family residence or accessory structure (e.g., studio, pool house, or other similar structure) shall be exempt from the sub-metering requirement. Sub-metering is, however, encouraged as a conservation tool that promotes the efficient use of water. The sub-metering requirement or sub-metering exemption*** 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 Six: Accessory Dwelling Units Under Construction

Active Water Permits that require sub-metering of ADUs in existing structures shall be eligible for the exemption adopted by this ordinance. An amended Water Permit shall not be required; however, an amendment is required to remove the requirement from any Limitation on Use (Form 1.1) deed restriction.

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. thirty days after adoption.

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 _____ 2020, 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 _____ 2020.

Witness my hand and seal of the Board of Directors this _____ day of _____ 2020.

David J. Stoldt, Secretary to the Board

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