

This meeting has been noticed according to the Brown Act rules. This agenda was posted on Friday, February 25, 2022.



**Technical  
Advisory  
Committee  
Members**

**City of Carmel-by-  
the-Sea**

*Marnie Waffle*

**City of Del Rey  
Oaks**

*John Guertin*

**City of Monterey**

*Kimberly Cole*

**City of Pacific  
Grove**

*Alyson Hunter*

**City of Sand City**

*Vibeke Norgaard*

**City of Seaside**

*Trevin Barber*

**County of  
Monterey**

*Erik V. Lundquist*

**Monterey Peninsula  
Airport District**

*Michael La Pier*

**MPWMD**

**Contacts:**

*David J. Stoldt,  
General Manager*

*Stephanie Locke,  
Water Demand  
Manager*

*Joel G. Pablo,  
Executive Assistant*

**AGENDA**

**Technical Advisory Committee (TAC)  
of the Monterey Peninsula Water Management District**

\*\*\*\*\*

Wednesday, March 2, 2022 at 1:00 p.m.

Join the meeting at:

<https://us06web.zoom.us/j/86286739286?pwd=SWtYa2JrZlQ4ck82b3Q0WWVKWWUyZz09>

Or access the meeting at <https://zoom.us/>

Webinar ID No.: 862 8673 9286

Meeting password: 03022022

Participate by Phone: (669) 900 - 9128

**For detailed instructions on connecting to the Zoom meeting, please see page 2 of this agenda.**

**Call to Order / Roll Call**

**Comments from Public-** *The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.*

**Action Items** – *Public comment will be received on all Action Items. Please limit your comments to three minutes in length.*

1. Consider Approval of July 2, 2020, and September 13, 2017, Committee Meeting Minutes

**Discussion Items** – *Public comment will be received on all Discussion Items. Please limit your comments to three minutes in length.*

2. Update on District's Water for Housing Initiative
3. SB-9: California Housing Opportunity and More Efficiency (HOME) Act and Water Permits for Accessory Dwelling Units that are Submetered
4. Review Proposed Amendment to Graywater/Rainwater Credit for Toilet Flushing and Clothes Washing
5. Review District-Wide Landscape Water Permit Requirement in Compliance with State's Model Water Efficient Landscape Ordinance (MWELO)
6. Reminder of Temporary Suspension of Water Permit Requirements for Outdoor Restaurant Seating During Pandemic

**Adjournment**

Staff reports regarding these agenda items will be available for public review on Friday, February 25, 2022 on the agency website <https://www.mpwmd.net/who-we-are/committees/advisory-committees/technical-advisory-committee/>. After staff reports have been distributed, if additional documents are produced by the District and provided to the Committee regarding any item on the agenda, they will be made available on the District's website prior to the meeting.

Documents distributed at the meeting will be made available upon request and posted to the District's website within five days following the meeting.

Upon request, MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. MPWMD will also make a reasonable effort to provide translation services upon request. Submit requests by noon on Monday, February 28, 2022. Requests should be sent to the Joel G. Pablo, Deputy Board Secretary, MPWMD, P.O. Box 85, Monterey, CA, 93942. You may also call 831-658-5652 or email [joel@mpwmd.net](mailto:joel@mpwmd.net). You may also reach out to Sara Reyes, Sr. Office Specialist at [sara@mpwmd.net](mailto:sara@mpwmd.net) or by phone at (831) 658-5610.

## Instructions for Connecting to the Zoom Meeting

NOTE: If you have not used Zoom previously, when you begin connecting to the meeting you may be asked to download the app. If you do not have a computer, you can participate by phone.

Begin: Within 10 minutes of the meeting start time from your computer click on this link:

<https://us06web.zoom.us/j/86286739286?pwd=SWtYa2JrZlQ4ck82b3Q0WWVKWWUyZz09>

or paste the link into your browser.

### **DETERMINE WHICH DEVICE YOU WILL BE USING** (PROCEED WITH ONE OF THE FOLLOWING INSTRUCTIONS)

#### **USING A DESKTOP COMPUTER OR LAPTOP**

1. In a web browser, type: <https://www.zoom.us>
2. Hit the enter key
3. At the top right-hand corner, click on “Join a Meeting”
4. Where it says “Meeting ID”, type in the Meeting ID# above and click “Join Meeting”
5. Your computer will begin downloading the Zoom application. Once downloaded, click “Run” and the application should automatically pop up on your computer. (If you are having trouble downloading, alternatively you can connect through a web browser – the same steps below will apply).
6. You will then be asked to input your name. It is imperative that you put in your first and last name, as participants and attendees should be able to easily identify who is communicating during the meeting.
7. From there, you will be asked to choose either ONE of two audio options: Phone Call or Computer Audio:

#### **COMPUTER AUDIO**

1. If you have built in computer audio settings or external video settings – please click “Test Speaker and Microphone”.
2. The client will first ask “Do you hear a ringtone?” •If no, please select “Join Audio by Phone”.  
•If yes, proceed with the next question:
3. The client will then ask “Speak and pause, do you hear a replay?” •If no, please select “Join Audio by Phone”  
•If yes, please proceed by clicking “Join with Computer Audio”

#### **PHONE CALL**

1. If you do not have built in computer audio settings or external video settings – please click “Phone Call”
2. Dial one of the numbers listed below using a phone. Select a phone number based on your current location for better overall call quality.

+1 669-900-9128 (San Jose, CA)

+1 253-215-8782 (Houston, TX)

+1 346-248-7799 (Chicago, IL)

+1 301-715-8592 (New York, NY)

+1 312-626-6799 (Seattle, WA)

+1 646-558-8656 (Maryland)

3. Once connected, it will ask you to enter the Webinar ID No. and press the pound key
4. It will then ask you to enter your participant ID number and press the pound key.
5. You are now connected to the meeting.

#### **USING AN APPLE/ANDROID MOBILE DEVICE OR SMART PHONE**

1. Download the Zoom application through the Apple Store or Google Play Store (the application is free).
2. Once download is complete, open the Zoom app.
3. Tap “Join a Meeting”
4. Enter the Meeting ID number
5. Enter your name. It is imperative that you put in your first and last name, as participants and attendees should be able to easily identify who is communicating during the meeting.
6. Tap “Join Meeting”

7. Tap "Join Audio" on the bottom left hand corner of your device
8. You may select either ONE of two options: "Call via Device Audio" or "Dial in"

#### **DIAL IN**

1. If you select "Dial in", you will be prompted to select a toll-free number to call into.
2. You may select any of the numbers listed below:

+1 669-900-9128 (San Jose, CA)

+1 253-215-8782 (Houston, TX)

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+1 312-626-6799 (Seattle, WA)

+1 646-558-8656 (Maryland)

3. The phone will automatically dial the number, and input the Webinar Meeting ID No. and your Password.
4. Do not hang up the call, and return to the Zoom app
5. You are now connected to the meeting.

### **Presenting Public Comment**

Receipt of Public Comment – the Chair will ask for comments from the public on all items. Limit your comment to 3 minutes.

- (a) Computer Audio Connection: Select the "raised hand" icon. When you are called on to speak, please identify yourself.
- (b) Phone audio connection **with** computer to view meeting: Select the "raised hand" icon. When you are called on to speak, push \*6 to unmute and please identify yourself.
- (c) Phone audio connection only: Press \*9. Wait for the clerk to unmute your phone and then identify yourself and provide your comment. Press \*9 to end the call.

### **Submit Written Comments**

If you are unable to participate via telephone or computer to present oral comments, you may also submit your comments by e-mailing them to [comments@mpwmd.net](mailto:comments@mpwmd.net) with one of the following subject lines "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "COMMENTS FROM THE PUBIC". Comments must be received by 10:00 a.m. on Wednesday, March 2, 2022. Comments submitted **by 10:00 a.m.** will be provided to the committee members and compiled as part of the record of the meeting.

## **CHARGE TO THE MPWMD TECHNICAL ADVISORY COMMITTEE (TAC)**

*Adopted by the MPWMD Board on January 24, 2008*

1. Primary Function

The Technical Advisory Committee (TAC) considers topics referred by the Board related to water use and consumption within the Monterey Peninsula Water Management District and reviews policies under development to ensure that they reflect the interests of the land use jurisdictions located within the District's boundaries. The TAC provides technical advice and recommendations to the District's Board of Directors and staff and serves as technical advisors to the Policy Advisory Committee (PAC).

2. Process

The TAC meets as needed to provide a forum for in-depth deliberation and discussion and to provide recommendations and direction to staff on issues related to water demand management and water conservation. The TAC meets the definition of a "legislative body" as defined by the Brown Act; therefore, all meetings shall be noticed and open to the public in compliance with the Brown Act.

3. Composition and Structure

- a) The TAC is comprised of a member representing each land use jurisdiction (i.e. the Monterey Peninsula Airport District, County of Monterey, and each city located within the boundaries of the MPWMD).
- b) A quorum of five (5) TAC members shall be required for an official meeting to be conducted. Action may be taken by majority vote of those TAC members present.
- c) The chair and vice chair of the committee shall be elected by the members of the TAC annually, or biennially at the first meeting conducted in the calendar year.
- d) The General Manager or other designated staff member(s) of the District shall provide support as appropriate.

4. Responsibilities of the TAC

- a) To meet as required on the call of the committee chair or a majority of committee members.
- b) To provide timely advice to the MPWMD staff and recommendations to the District Board of Directors on technical matters related to water demand management and conservation as it affects their jurisdictions.
- c) To undertake other tasks as designated by the Board.
- d) To serve as a conduit of information from the District to City/County staff and vice versa.

## **TECHNICAL ADVISORY COMMITTEE**

### **ITEM: ACTION ITEM**

#### **1. CONSIDER ADOPTION OF JULY 2, 2020 AND SEPTEMBER 13, 2017 COMMITTEE MEETING MINUTES**

**Meeting Date:** March 2, 2022

**From:** David J. Stoldt,  
General Manager

**Prepared By:** Joel G. Pablo

**CEQA Compliance:** This action does not constitute a project as defined by CEQA guidelines.

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**SUMMARY:** Attached as **Exhibit 1-A and 1-B** are draft minutes of the July 2, 2020 and September 13, 2017 committee meeting.

**RECOMMENDATION:** Upon review, the committee should adopt the minutes by motion.

#### **EXHIBIT**

**1-A** Draft Minutes of July 2, 2020 Committee Meeting

**1-B** Draft Minutes of September 13, 2017 Committee Meeting





## **EXHIBIT 1-A**

### **DRAFT MINUTES**

#### **Technical Advisory Committee of the Monterey Peninsula Water Management District July 2, 2020**

#### **Call to Order**

The virtual meeting was called to order at 10:00 am via WebEx.

#### **Committee members present:**

City of Carmel-by-the-Sea	Marnie Waffle
City of Del Rey Oaks	Dino Pick
City of Monterey	Kimberly Cole
City of Sand City	Aaron Blair
City of Seaside	Kurt Overmeyer
Monterey Peninsula	Dan Johanson
Airport District	

#### **Committee members absent:**

City of Pacific Grove	Anastazia Aziz
County of Monterey	Carl Holm

#### **Staff members present:**

David J. Stoldt, General Manager  
Stephanie Locke, Water Demand Division Manager  
Arlene Tavani, Executive Assistant

#### **District Counsel present:**

David Laredo, De Lay & Laredo  
Heidi Quinn, De Lay & Laredo

#### **Comments from the Public:**

No comments.

#### **Review of Committee Charge by Stephanie Locke**

#### **Action Items**

##### **1. Elect Committee Chair and Vice Chair**

Pick offered a motion to elect Kimberly Cole as Committee Chair. The motion was approved on a vote of 5 – 0 by Waffle, Cole, Blair, Overmeyer and Pick. Johanson was not present for the vote. Aziz and Holm were absent from the meeting.

#### **Discussion Items**

##### **2. Discuss Responses from Jurisdictions on Near-Term Needs for Housing and Review Next Steps**

Locke and Stoldt reviewed information provided in the staff report and responded to questions. He also noted that Table 6 in the staff note was in error, the total was 70 acre-feet, not 75 acre-feet as shown. He explained that 5 acre-feet would be placed in the District Reserve, and a jurisdiction could request use of that water in the future. No objections to the plan were raised by the committee members. The following comments were expressed by the committee. (a) Support the proposed plan for requesting the State to release water for the jurisdictions. It could take five years to develop projects that could benefit from the water. (b) How did the District arrive on the



75 acre-feet allocation. Why not go bigger? The amount should be characterized as a contribution to satisfy the RHNA numbers, but not as an amount sufficient to meet housing targets. *Stoldt responded that 75 acre-feet seemed adequate for what the jurisdictions could realistically permit. The 75 acre-feet was developed by reviewing the difference between water use in 2009 and present water use. Approximately 2% of that number was 75 acre-feet; a de minimis and reasonable amount that would result in very minimal impact on the Carmel River.* (c) Support this proposal, the amount offered was very short of meeting the city's goals, but it was a substantial step forward. No public comment was directed to the committee.

**3. Update on Revisions to Second Bathroom Protocol**

Locke reported that the Board adopted Ordinance No. 185, effective June 18, 2020, that allowed a second bathroom to be added in a dwelling unit without a debit to the jurisdiction's allocation, if there were less than four dwelling units on the site. The second bathroom was previously permitted only in a single-family dwelling on a single-family residential site. Under the new ordinance, ADU's could be permitted without the need to permit the second bathroom that previously was added under the second bathroom protocol. Locke also advised the committee that during the moratorium on setting of new water meters in the California American Water system, there was no requirement to separately meter an ADU.

**Adjournment** – The meeting was adjourned at 10:40 am.

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**EXHIBIT 1-B**

**DRAFT MINUTES**

**Technical Advisory Committee of the  
Monterey Peninsula Water Management District  
*September 13, 2017***

**Call to Order**

The meeting was called to order at 9:10 am in the Conference room at the offices of the Monterey Peninsula Water Management District.

**Committee members present:**

City of Monterey	Todd Bennett, Chair
City of Pacific Grove	Anastazia Aziz
City of Seaside	Kurt Overmeyer (arrived at 9:20 am)
County of Monterey	Nadia Amador (arrived at 9:30 am)
Monterey Peninsula Airport District	Shelley Glennon

**Committee members absent:**

City of Carmel-by-the-Sea	Marc Weiner
City of Del Rey Oaks	Vacant
City of Sand City	Tod Bodem, Vice Chair

**Staff members present:**

David J. Stoldt, General Manager  
Stephanie Locke, Water Demand Division Manager  
Arlene Tavani, Executive Assistant  
Gabriella Ayala, Conservation Analyst

**District Counsel present:**

Fran Farina

**Comments from the Public:**

No comments.

**Action Items**

- 1. Consider Adoption of April 16 2016 Committee Meeting Minutes**  
On a motion by Aziz and second of Glennon, minutes of the April 16, 2016 committee meeting were approved on a vote of 3 – 1 by Aziz, Bennett and Glennon. Committee member Overmeyer abstained because he had not attended the meeting. Amador did not cast a vote No comments were directed to the committee during the public comment period on this item.
- 2. Elect Committee Chair and Vice Chair**  
On a motion by Bennett and second of Aziz, Aziz was elected to the position of Committee Chair and Bennett was elected to the position of Vice-Chair each for a 2-year term ending the first meeting of the Committee in 2020. The motion was approved on a vote of 4 – 0 by Overmeyer, Bennett, Aziz and Glennon. Amador did not cast a vote.

### **Discussion Items**

#### **3. Discuss Water Permitting Considerations for Auxiliary Dwelling Units**

Stephanie Locke stated that passage of Senate Bill No. 1069 (Wieckowski) has increased interest in development of auxiliary dwelling units (ADU). The legislation is in conflict with the water permit moratorium and other Water Management District regulations.

District Counsel Fran Farina explained that 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. However, the Water Management District could modify its rules to allow sub-metering for ADUs and specify conditions for compliance. In addition, capacity fees for new fixtures could be reduced or exempted to align with the legislation.

Aziz requested that the Water Management District’s rules be modified as follows. If sufficient water credit could not be obtained from the primary residence for a bathroom in the ADU, the second bathroom protocol should be utilized for installation of a bathroom in the ADU. She expressed strong support for development of rules that would allow sub-metering of the ADU. Aziz recommended against a requirement that the ADU meet the conditions for a affordable housing in order to qualify for special consideration by the Water Management District. She has observed that property owners are not willing to spend the time and money to qualify their units as affordable. The City of Pacific Grove limits the size of ADUs to 800 square feet. The city’s ordinance specifies that an ADU cannot be rented for less than 30 days.

(Nadia Amador from the County of Monterey Planning Department arrived at 9:30 am)

Locke advised the committee that a CEQA challenge could be raised against any proposal to allow the second bathroom protocol to be applied to an ADU. The second bathroom protocol was based on the premise that adding another bath does not increase water use – but offers convenience for the property owner. Use of the second bathroom protocol as suggested would provide a bathroom for another family.

Bennett stated that the City of Monterey does not require that an ADU meet the requirements for affordable housing. Project size is limited to 1,200 square feet, and the owner must live in either the primary unit or the ADU. In addition, a prohibition on short-term rentals of all residential properties is in effect.

Overmeyer noted that there is confusion about under what circumstances Cal-Am will set a meter. For example, it is not clear if Cal-Am would set a meter for projects that receive water from adjudicated sources that are not subject to the Cease and Desist Order.

Locke stated that the Water Management District allows sub metering of ADUs only if that unit could not be sold separately from the primary unit, and only if water credits are available for the ADU. The Water Management District could consider: (a) installation of sub-meters on ADUs with the condition that a Cal-Am meter be set after the moratorium is lifted, or in some cases a sub-meter could be permanent; (b) if the source of water was from a jurisdictional allocation, a capacity fee would be due but the Board could consider a reduced fee or no fee for an ADU, and (c) at the behest of the committee, staff will bring forward to the Water Demand Committee the concept of the second bathroom protocol as a source of water for the ADUs, however; there is a CEQA issue with that proposal.

**4. Update on Development of Water Supply Projects**

Stoldt reported that sizing of Cal-Am's desalination plant is in question, and the CPUC has asked for testimony regarding this issue. One of the questions being analyzed is could the Pure Water Monterey Project be expanded to provide additional water. Water demand has been reduced over time, and it has been suggested that construction of a 6.4 mgd desalination plant with other supplies may be a sufficient solution. There is a concern that if the CPUC certifies the desalination project EIR in March 2018, a CEQA lawsuit could be filed during the 30-day comment period, which could delay project construction. The potential for PWM expansion could be a solution should Cal-Am's 6.4 mgd or 9.6 mgd desal project be delayed or not approved.

Representatives from the cities of Monterey, Pacific Grove and Seaside stated that there is pent-up demand for new construction and remodels in their jurisdictions. Many underdeveloped properties exist and the lack of water impedes progress.

Stoldt reported that in October 2017, testing will begin on the Pacific Grove Local Water Project, which has established a 66 acre-feet water entitlement for use within the City of Pacific Grove. However, terms of the State Revolving Loan that partially funded the project specify that the entitlement water cannot be used for new development. The Water Management District has a 9 AF per year entitlement from that project which it would like to set aside for public benefit projects throughout the District. Before the entitlements can be utilized, the City of Pacific Grove must present evidence to the State to support the premise that the entitlement is not "new water" but is replacement water made available due to reuse of treated stormwater from the Local Water Project. The District is also formulating rules that would allow the Malpaso water entitlement to be used for public benefit projects throughout the District.

**Questions from Committee Members to MPWMD Staff:** None

**Adjournment** – The meeting was adjourned at 10:15 am.

## **TECHNICAL ADVISORY COMMITTEE**

**ITEM:     DISCUSSION ITEM**

### **2.         UPDATE ON DISTRICT’S WATER FOR HOUSING INITIATIVE**

**Meeting Date:     March 2, 2022                             Budgeted:             N/A**

**From:                 David J. Stoldt,                             Program/             N/A**  
**General Manager                             Line Item No.:     N/A**

**Prepared By:        Stephanie Locke                             Cost Estimate:     N/A**

**General Counsel Review: N/A**

**CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.**

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An update on the District’s Water for Housing Initiative will be given at the meeting.

## TECHNICAL ADVISORY COMMITTEE

### ITEM: DISCUSSION ITEM

#### 3. SB-9: CALIFORNIA HOUSING OPPORTUNITY AND MORE EFFICIENCY (HOME) ACT AND WATER PERMITS FOR ACCESSORY DWELLING UNITS THAT ARE SUBMETERED

Meeting Date:	March 2, 2022	Budgeted:	N/A
From:	David J. Stoldt, General Manager	Program/ Line Item No.:	N/A N/A
Prepared By:	Stephanie Locke	Cost Estimate:	N/A

General Counsel Review: N/A

**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

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**SUMMARY:** As Technical Advisory Committee (TAC) members are probably very aware, SB-9 (**Exhibit 3-A**), also known as the California Housing Opportunity and More Efficiency (HOME) Act, is a state bill that requires cities to allow the splitting of a Residential<sup>1</sup> Parcel into two Parcels on Parcels zoned for Single-Family Dwellings in certain circumstances. The law, which passed in September 2021, went into effect on January 1, 2022. It facilitates subdivisions (and affordable housing) by making the approval process a ministerial action without discretionary review.

The District requires each “User<sup>2</sup>” to install a Water Meter maintained by the Water Distribution System Operator as a conservation measure that encourages accountability for water use. However, the District made an exception to this requirement to allow sub-metering of Accessory Dwelling Units with the caveat that the Jurisdiction must confirm 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 (**Exhibit 3-B**). Implementation of the HOME Act could potentially result in the splitting of a property that has previously received an exemption to the metering requirement.

Staff will be adding language to the deed restriction recorded with the Water Permit to require immediate installation of a Water Meter upon subdivision of the property if there is a sub-metered unit located on the new lot. Adding the metering requirement to the deed restriction and permit will reduce the potential that an Accessory Dwelling Unit (ADU) or a temporarily sub-metered User might continue to receive water from the originally permitted Water Distribution System Connection. Projects undertaken prior to this added language will need to be made aware of the requirement. It is imperative that the Jurisdiction be aware of the metering requirement when processing these applications and notify the District when these subdivisions take place.

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<sup>1</sup> Capitalized terms are defined in Rule 11.

<sup>2</sup> “User” is defined in Rule 11 as 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 Dwelling Unit, each Non-Residential enterprise, and each Dedicated Irrigation Meter shall be deemed a separate and distinct User.

Locally, Jurisdictions have been reviewing their policies to determine the potential impacts of the legislation. Although it appears unlikely that many of these subdivisions will occur in areas other than the unincorporated County areas, this topic is one that needs to be discussed with the District's Technical Advisory Committee (TAC).

**RECOMMENDATION:** This is a discussion item.

**EXHIBITS**

**3-A** SB-9, Atkins

**3-B** MPWMD Rule 23-A-1-i

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Date Published: 09/17/2021 09:00 PM

**Senate Bill No. 9**

## CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[ Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021. ]

## LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.



This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority   Appropriation: no   Fiscal Committee: yes   Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 65852.21 is added to the Government Code, to read:

**65852.21.** (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) "Local agency" means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

**SEC. 2.** Section 66411.7 is added to the Government Code, to read:

**66411.7.** (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

**SEC. 3.** Section 66452.6 of the Government Code is amended to read:

**66452.6.** (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or

periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

**SEC. 4.** The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

**SEC. 5.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

## **EXHIBIT 3-B**

### **RULE 23 - ACTION ON APPLICATION FOR A WATER PERMIT TO CONNECT TO OR MODIFY A CONNECTION TO AN EXISTING WATER DISTRIBUTION SYSTEM**

- i. Water Meters maintained by the Water Distribution System Operator shall be installed for each Residential and Non-Residential water User except as allowed in 23-A-1-i-(3), (4), (5), (6), and (7).
  - (1) A Non-Residential User may extend water use to another Non-Residential User within an existing structure unless the Remodel or Addition requires a Water Permit for a Change of Use (as defined in Rule 11).
  - (2) A Change of Use as defined in Rule 11 shall trigger the requirement for a separate Water Meter if the User has a Bathroom or uses water as a component of their business (i.e., restaurant, Group II uses, manufacturing, etc.).
  - (3) Users of multiple structures on a Site occupied by one Non-Residential User may apply for a variance of this Rule.
  - (4) The General Manager shall allow sub-metering for each Multi-Family Dwelling (including condominiums and Common Interest Developments), Mixed Use, or Non-Residential User when the installation of separate Water Meters is not feasible and the User is utilizing Water Credits or an Entitlement on a Site that has a Connection. Applications for sub-metering of Single Family Dwellings 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. Approval of a Water Permit allowing sub-metering under this provision shall require recordation of a deed restriction on the title of the property that shall encumber current and future Siteowners to comply with the following conditions:
    - 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 or near the future meter box to facilitate this requirement. Once Water Meters maintained by the Water Distribution System Operator have been installed, the deed restriction shall be removed.



- b. When requested at the conclusion of the Water Year, the Site's owner shall provide the General Manager with individual monthly consumption for each User in a format acceptable to the District. Information shall identify the User of the sub-meter (e.g. apartment number or lease space number) and the number of residents in each Residential Dwelling Unit or the type of use according to Rule 24, Table 2, for each Non-Residential User;
  - c. During Stage Four of the Monterey Peninsula Water Conservation and Rationing Plan (Regulation XV), sub-metered consumption shall be provided to the District monthly or more frequently if requested by the General Manager;
- (5) The Board shall consider variances to this Rule when the installation of separate Water Measuring Devices is not feasible due to Special Circumstances. In considering a variance, the Board shall determine if another type of Water Measuring Device is appropriate and shall make reporting of consumption a condition of approval.
- (6) The General Manager shall allow permanent sub-metering of all water use into one Accessory Dwelling Unit. 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.
- (7) The General Manager shall allow permanent sub-metering of each User's water use in a Multi-Family Dwelling or Residential Common Interest Development of more than four units and into the project's common areas. Approval of a Water Permit allowing sub-metering under this provision shall require recordation of a deed restriction the title of the property that shall encumber current and future Site/common area owners to comply with the following conditions:
  - a. When requested at the conclusion of the Water Year, the Site's owner shall provide the General Manager with individual monthly consumption for each User in a format acceptable to the District. Information shall identify the User

of the sub-meter (e.g. apartment or condo number) and the number of residents in each Dwelling Unit and information about common area uses;

- b. During Stage Four of the Monterey Peninsula Water Conservation and Rationing Plan (Regulation XV), sub-metered consumption shall be provided to the District monthly or more frequently if requested by the General Manager.
- j. When the application involves recordation of notices on the title of the property, all notices shall be recorded by the District prior to final issuance of a Water Permit. Additional information (e.g. trust documents, Articles of Incorporation) may be requested to verify ownership and to facilitate preparation of District notices.
- k. The General Manager shall collect payment of the appropriate Capacity Fee and processing fees and shall issue a receipt prior to final issuance of a Water Permit.
- l. When the application requests a Permit to install a new water meter for a fire suppression system, to extend a water main within the boundaries of the Water Distribution System, or to individually meter uses previously metered by one water meter (i.e. Meter Split), there shall be no processing fee.
- m. The General Manager shall mark the Construction Plans and the Landscape plans with the District's Water Permit Approval Stamp and shall sign the stamp and include the Water Permit number and date issued. An electronic copy of the Landscaping plan shall be retained by the District.
- n. The General Manager shall review the final Water Permit with the Applicant or his agent prior to requesting a signature on the Water Permit and releasing the Permit and Construction Plans.
- o. Following Project completion, a final inspection of the Project shall be conducted by the District. Major Landscape Projects shall be audited by a Certified Landscape Irrigation Auditor and corrections noted in the

audit shall be made prior to District inspection. If the completed Project varies from the permitted Project, application for an amended Water Permit is required. When the completed Project has fewer fixture units than the number permitted (Residential Water Permits), or has a smaller Water Use Capacity than permitted (Non-Residential and landscape 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.

- p. Notice by the District to correct any discrepancy shall be provided on the inspection report to the Person contacted at the Site and by regular mail to the owner of record. Notice of violations that may result in a debit to a Jurisdiction's Allocation shall also be mailed, faxed or emailed to the Jurisdiction. Such notice shall include a date by which any corrections and amendments shall be made. Thereafter, the General Manager may adjust the charge and debit the water from a Jurisdiction's Allocation or cause a refund of Capacity Fees paid and water previously debited from an Allocation to reflect the Project as built rather than the Project as permitted.
- q. Removal of unpermitted water fixture. When a water fixture requiring a Water Permit by the District is installed without a Water Permit and the Applicant is unable to secure sufficient Allocation from a Jurisdiction or Entitlement, or if there is insufficient Water Credit on Site to permit the fixture, the Applicant shall remove the fixture and return the location to its original state where there is no evidence of the unpermitted water fixture.

2. Temporary Water Permits.

- i. The General Manager may issue a Water Permit for temporary water use when the Applicant has submitted a written request for a Temporary Water Permit, including an explanation of the type of use and quantity of water requested and a signed Water Release Form from the Jurisdiction.
- j. The Applicant for a Temporary Water Permit shall acknowledge in writing that the Temporary Water Permit does not confer a property interest to obtain or use water after expiration and/or Revocation of the Permit. The terms and conditions of the Temporary Water Permit shall be recorded on the title of the property for the duration of the Temporary Water Permit.
- k. The term of a Temporary Water Permit shall not exceed twenty-four (24) months.
- l. The General Manager shall process a Temporary Water Permit pursuant to the process in Rule 23-A-1.

- m. Following removal of the temporary use and verification by the District, water temporarily debited from the Jurisdiction's Allocation will be returned to the Jurisdiction and the Capacity Fee paid for the temporary use will be refunded to the current property owner.
- n. A Notice of Removal of Deed Restriction shall be recorded by the District at the conclusion of the Temporary Water Permit process.

3. Conditional Water Permits.

A category of Water Permits known as Conditional Water Permits shall be available to a limited group of Applicants under restricted circumstances and only with the Jurisdiction's endorsement. A Conditional Water Permit creates a record that specifically quantifies the increment of water assigned for use at the location designated by the Jurisdiction and debits the Jurisdiction's Allocation. Conditional Water Permits are available to those Projects that are unable to meet all of the criteria of Rule 23-A-1 and meet the standards of this Rule.

- i. The following categories of Projects may obtain a Conditional Water Permit:
  - (1) Large Projects - Commercial Projects with a projected water demand of over one Acre-Foot annually.
  - (2) Government Projects - Projects owned and operated or financed by a Governmental agency.
  - (3) Projects with Complex Financial Underwriting - Determined at the discretion of the Board of Directors.
- j. The Conditional Water Permit may be issued when the following criteria have been met:
  - (1) There is no Water Supply Emergency;
  - (2) There is sufficient water supply in the Jurisdiction's Allocation;
  - (3) The governing body of a Jurisdiction submits a written request that a Conditional Water Permit be issued to a Project;
  - (4) A completed Water Release Form for the Project is submitted which includes the authorizing signature of the Jurisdiction to debit its Allocation;
  - (5) Payment of all Capacity Fees and fees has been received by the District.

- k. A Conditional Water Permit shall be numbered with the next sequential alpha and numeric number beginning with C-001, C-002, etc. A Water Permit bearing the Permit number referenced in the Conditional Water Permit shall be maintained unsigned in the District's file.
- l. The Applicant's notarized signature is required on the Conditional Water Permit form before the General Manager's approval.
- m. A Conditional Water Permit shall be valid after the General Manager has signed the Permit.
- n. An amount of water approved for use by the Jurisdiction for the Project will be debited from the Jurisdiction's Allocation at the time the Conditional Water Permit is issued.
- o. A Conditional Water Permit does not allow the setting of any water meter or the start of any new or expanded water use until the conditions of the Permit have been met and a Water Permit has been issued pursuant to Rules 21 and 23.
- p. Each Conditional Water Permit is time limited. The Conditional Water Permit shall expire on December 31st of the year following issuance.
- q. A written request for extension of the Conditional Water Permit may be requested and shall require Board authorization for extension. Requests for extension must be received no earlier than ninety (90) days and no later than forty-five (45) days prior to expiration and must include an explanation for the request and the Jurisdiction's agreement that the Board should grant an extension.

4. Water Permit Waiver

When requested by a Jurisdiction, or at the request of an Applicant, the District will review a Water Permit application. When a Water Permit is not required, the District will issue a "waiver." A waiver involves the same review process as a Water Permit but does not result in recordation of deed restrictions.

**B. MANDATORY CONDITIONS, ACTION ON APPLICATION FOR A WATER PERMIT TO CONNECT TO OR MODIFY AN EXISTING WATER DISTRIBUTION SYSTEM**

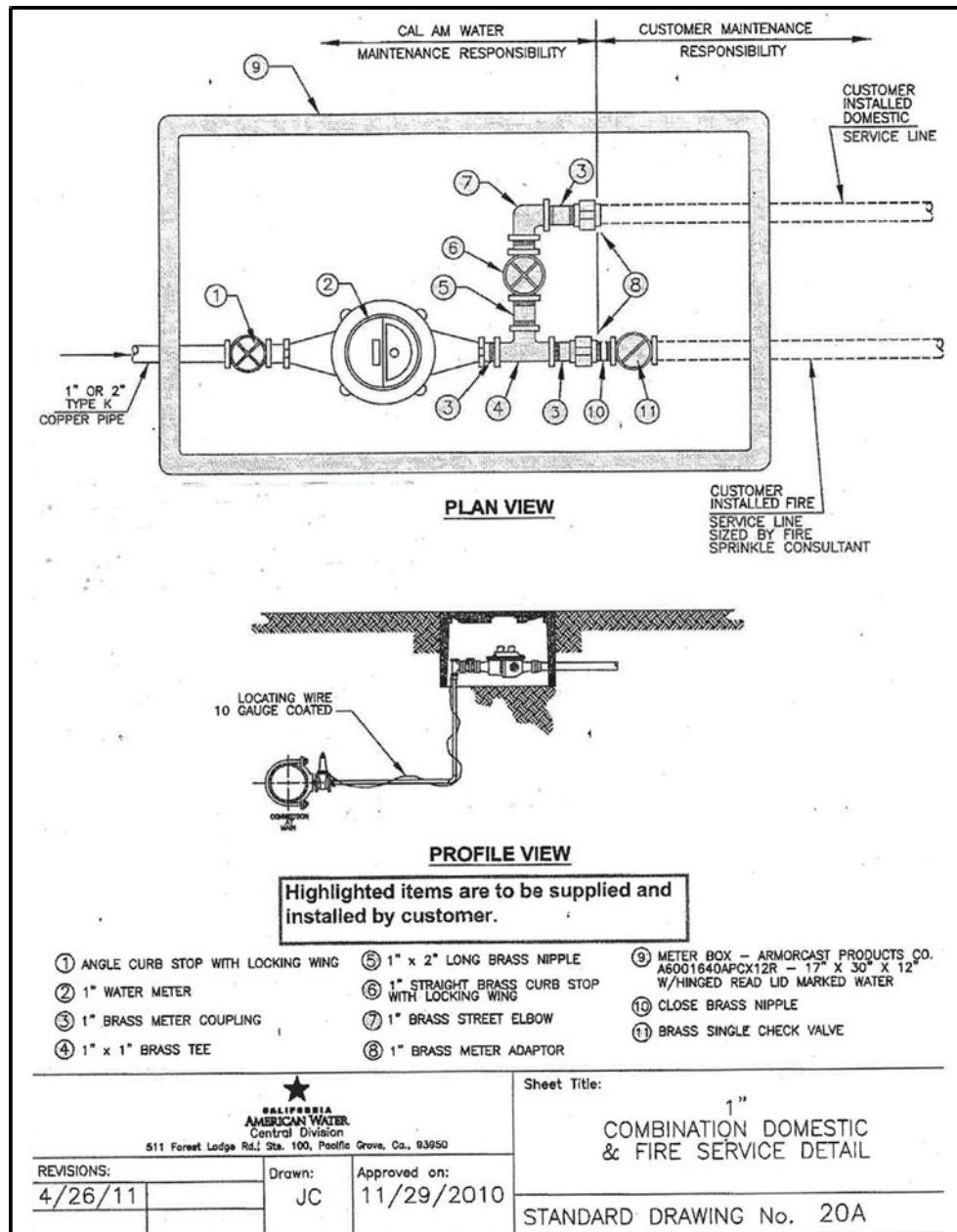
- 1. Construction Affecting the Interior or Exterior of an Existing Structure. All construction within or to an Existing Structure shall be subject to the following conditions:

- i. The project Site must meet all applicable water conservation requirements of Regulations XIV and XV.
- j. Other conditions may be placed upon approval as indicated in the applicable rule governing the Water Permit process.
- k. The Applicant shall arrange for a final inspection by the District upon Project completion. District staff shall review the Project, water fixtures, and Landscaping for compliance with the Water Permit.
- l. Permit amendments or other actions required as a result of a final inspection shall be completed within thirty (30) days of the date of the final inspection.
- m. All Water Permits shall include a Notice and Deed Restriction titled "Provide Public Access to Water Use Data." There shall be no additional charge for this deed restriction.

2. Construction of a New Structure.

- i. Water Meters maintained by the Water Distribution System Operator shall be installed for each Residential and Non-Residential water User except as allowed in Rule 23-A-1-i-(3), (4), and (5).
- j. All Non-Residential New Structures that include irrigated landscapes of 1,000 square-feet or greater shall utilize a separate Water Meter supplied by the Water Distribution System to measure all exterior water uses. All Residential irrigated landscapes of 5,000 square-feet or greater shall install a sub-meter to measure outdoor water use.
- k. 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.

Figure 23-1



1. All Water Permits requiring deed restrictions shall also include a Notice and Deed Restriction titled "Provide Public Access to Water Use Data."
3. Construction in the Sleepy Hollow Subdivision of Carmel Valley.
  - i. All exterior water use shall be supplied by the Sleepy Hollow Non-Potable Water system or by an On-Site Well.
  - j. Interior water use shall be supplied by California-American Water Company (also known as the Sleepy Hollow Mutual Potable Water

Distribution System) by a Master Meter at the subdivision boundary.

- k. Both interior and exterior uses shall be metered by individual watermeters.

**C. ADJUSTMENT OF ALLOCATION OR WATER USE PERMIT FOR UNUSED WATER CAPACITY**

1. Any permitted Water Use Capacity which is not used because of an abandoned, expired, Revoked, returned, or amended Water Permit shall be returned to the applicable Allocation or Water Use Permit.
2. The Owner of any Benefited Property shall be entitled to receive additional Water Permit(s) until the Water Use Permit has been used in full.

*Rule added by Ordinance No. 1 (2/11/80); amended by Ordinance No. 2 (3/11/80); Ordinance No. 3 (7/11/80); Ordinance No. 5 (4/13/81); Ordinance No. 6 (5/11/81); Ordinance No. 7 (7/13/81); Ordinance No. 8 (1/14/81); Ordinance No. 9 (2/14/83); Ordinance No. 11 (11/14/83); Ordinance No. 16 (8/13/84); Ordinance No. 26 (9/8/86); Ordinance No. 40 (4/10/89); Ordinance No. 44 (10/9/89); Ordinance No. 60 (6/15/92); Ordinance No. 64 (10/5/92); Ordinance No. 71 (12/20/93); Ordinance No. 77 (8/21/95); Ordinance No. 115 (05/17/2004); Ordinance No. 125 (9/18/2006); Ordinance No. 128 (6/18/2007); Ordinance No. 137 (12/8/2008); Ordinance No. 145 (9/20/2010); Ordinance No. 156 (11/18/2013); Ordinance No. 157 (12/9/2013); Ordinance No. 161 (7/21/2014); Ordinance No. 165 (8/17/2015); Ordinance No. 170 (5/16/2016); Ordinance No. 172 (8/15/2016); Ordinance No. 177 (1/18/2017); Ordinance No. 178 (11/13/2017); Ordinance No. 179 (8/20/2018); Ordinance No. 182 (5/20/2019); Ordinance No. 184 (8/19/2019); Ordinance No. 185 (5/18/2020); Ordinance No. 189 (12/13/2021)*



## TECHNICAL ADVISORY COMMITTEE

### ITEM: DISCUSSION ITEM

#### 4. REVIEW PROPOSED AMENDMENT TO GRAYWATER/RAINWATER CREDIT FOR TOILET FLUSHING AND CLOTHES WASHING

Meeting Date:	March 2, 2022	Budgeted:	N/A
From:	David J. Stoldt, General Manager	Program/ Line Item No.:	N/A N/A
Prepared By:	Stephanie Locke	Cost Estimate:	N/A

**General Counsel Review:** N/A

**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

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**SUMMARY:** The permitting of Graywater<sup>1</sup> reuse systems to replace the water supply for toilet flushing and washing clothes was approved by the Board in 2019 for Multi-Family Dwellings and for Single Family Dwellings in 2020. However, the realistic application of these systems may be more complex than previously thought. Staff will be requesting the Water Demand Committee at its March 3, 2022 meeting to support removal of the credit for Single Family-type applications due to practical difficulties with retrofitting existing plumbing systems and with application of the conditions of approval. Staff continues to support the use of Graywater systems in Multi-Family Dwellings with at least six units.

Although the District has not issued a Water Permit that utilizes a Graywater credit, there has been some interest in the community, particularly on properties that have utilized all available credit sources. Recently, the District was notified by the City of Monterey about an Accessory Dwelling Unit (ADU) that had been constructed without a Water Permit, and there is not sufficient available credit on Site to offset the water fixtures in the ADU without utilizing the Graywater credit. In another recent inquiry, a homeowner wants to add a half bathroom to their three-bathroom home but has already used every credit available other than the Graywater system credit. As District staff established what steps need to be taken to permit a Graywater system as the permanent Source of Supply for certain fixtures, a number of challenges were identified, such as:

- The District requires that the Graywater system “capacity” must be designed to meet 100 percent of the annual demand of the plumbed fixture(s), plus three days. In a small-scale setting such as in an Accessory Dwelling Unit or Single-Family Dwelling, this may not be possible depending on the bathing habits of the occupant(s). This is more problematic when there is no Clothes Washer plumbed to the Graywater collection system to provide additional supply.
- The Monterey County Environmental Health Bureau requires a reliable backup water supply to augment the Graywater system, if needed. The resolutions adopted by the Board specify

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<sup>1</sup> Capitalized terms are defined in [MPWMD Rule 11](#).

that this should be done by adding a metered auto-fill valve to the Graywater storage tank. This concept is completely acceptable and supports staff's position that there must be no Potable water supply at the individual fixture(s) that are connected to the Graywater system. However, if the project involves retrofitting of an existing building, the former Potable plumbing must be permanently removed, requiring a plumbing permit and Water Permit to reconnect to the Potable supply.

- Monterey County Environmental Health Bureau must issue a permit for a Graywater treatment system. As part of their permit process, a backflow survey is required. The Graywater plumbing system must be entirely separate from the Potable system to avoid any potential cross-contamination of the Potable supply within the home(s). It makes sense to install a separate Graywater system during construction of a new building where a building inspector can easily oversee the installation. It does not make sense to replumb an entire existing home to accommodate a Graywater system, especially when it must involve permanent removal of plumbing to toilets and clothes washers to meet the District's definition of "Permanent Abandonment of Use."
- Cal-Am is requiring that a backflow preventer be installed on any property that has a Graywater system for flushing toilets or washing laundry. Backflow devices require periodic testing and maintenance and are registered with Cal-Am. Water customers must contract with a licensed professional to perform the required tests and make any necessary repairs.
- In keeping with the Board's action to allow a credit for a Graywater system, there must be meters on the inflow to the treatment system, outflow to the plumbing system, and a meter on the Cal-Am backup fill. The meters need to measure the amount of inflow into the treatment system, the amount of treated water outflow to the toilets/laundry, and the amount of Cal-Am makeup water that might be needed by the system. This information must be submitted to the District annually for a period of five years, which requires resources to contact the property owner and follow up.
- Regular use of Potable makeup water should result in revocation of the credit and a requirement to permit the water fixtures supplied by the Graywater system at full Capacity. The credit for fixtures supplied by a Graywater system is a 75% reduction in the fixture unit value. This condition will be included on the deed restriction that the District records on the property with the Water Permit approval.
- District staff is reliant on the Jurisdiction's Building Inspector to verify that the plumbing systems are separate and that there is no Potable plumbing to the fixtures for which credit is being given.
- Graywater systems require maintenance. There is a long-term property owner commitment associated with installation of a Graywater system. Graywater systems make sense in a Multi-Family Dwelling where management is committed to maintenance and operation of the system.

**RECOMMENDATION:** This is a discussion item. The Technical Advisory Committee may take a position supporting or not supporting the change to limit credit to Multi-Family Dwellings with at least six units. The District's Board will continue to incentivize Graywater/rainwater systems through the rebate program.

**BACKGROUND:** Rule 25.5 sets forth the process for obtaining a Water Use Credit for a Permanent Abandonment of Use. Water savings from mandatory conservation retrofits do not qualify for credit, other than a limited number of retrofits that are shown on [Table 4](#). Table 4 is periodically updated by Board Resolution. In July 2019, the Board added a credit for the use of Graywater for flushing toilets and washing laundry in Multi-Family Dwelling Units. In January 2020, the restriction to Multi-Family Dwelling Units was dropped, allowing Single-Family Dwelling Units to benefit from Graywater systems. To date, the District has not issued a Water Permit that utilizes this credit.

## **EXHIBITS**

None

## TECHNICAL ADVISORY COMMITTEE

### ITEM: DISCUSSION ITEM

#### 5. REVIEW DISTRICT-WIDE LANDSCAPE WATER PERMIT REQUIREMENT IN COMPLIANCE WITH STATE'S MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWELO)

**Meeting Date:** March 2, 2022 **Budgeted:** N/A

**From:** David J. Stoldt,  
General Manager **Program/** N/A  
**Line Item No.:** N/A

**Prepared By:** Stephanie Locke **Cost Estimate:** N/A

**General Counsel Review:** N/A

**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

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**SUMMARY:** At the request of the TAC, the District serves as a regional agency responsible for compliance with the State's Model Water Efficiency Landscape Ordinance (MWELO) implementation and reporting requirements. District Rule 142.1 (**Exhibit 5-A**) applies to all properties within the District, and the District annually reports the number of Landscape Water Permits issued and the number of compliance inspections completed.

District staff wants to take this opportunity to remind the Jurisdictions of the Landscape Water Permit requirements that apply to projects receiving building permits. Without the cooperation of the Jurisdictions to send applicants to the District when there is a remodel that involves grading or relandscaping, some of the opportunities to ensure water efficient landscapes may be lost. New landscapes associated with new construction are permitted when the project applies for the Water Permit, but projects that do not involve indoor water fixtures can slip through the cracks. Please remind Planning and Building staff to refer landscape remodels to the District for review.

**RECOMMENDATION:** This is a discussion item.

**BACKGROUND:** On April 1, 2015, Governor Brown ordered DWR (Executive Order B-29-15) to update the MWELO. A revised MWELO was adopted after considerable stakeholder input by the State on September 15, 2015. All agencies were directed to implement the changes by December 1, 2015, and to report on local adoption by March 1, 2016 if a regional approach was taken. At the September 21, 2015 TAC meeting, the TAC voted that the MWELO should be implemented by the District as a regional measure. MPWMD reported to DWR that it would be reporting for the region (MPWMD) and reported as required on March 1, 2016.

MPWMD Rule 142 has required compliance with the State's Model Water Efficient Landscape Ordinance (MWELO) since 2009. As part of the District's Water Permit process, staff routinely evaluates the Water Use Capacity of the landscape. Beginning in 2016, the District began

reporting region-wide compliance with MWELo to the DWR. As the regional water manager, MPWMD is the appropriate agency to implement the water efficient landscape requirements.

MWELo applies to new landscapes (including landscapes associated with a building demolition/rebuild) with an aggregate landscape area greater than 500 square-feet that are associated with any grading permit, building permit, or design approval (including such projects as lighting, decks, retaining walls, fences, etc.). It also applies to refurbished landscapes (i.e., replacement of existing landscaping) greater than 2,500 square-feet that require a building or landscape permit, plan check, or design review. MWELo focuses on water efficiency in plant selection, landscape design, and the irrigation system.

## **EXHIBIT**

### **5-A MPWMD Rule 142.1**

## **EXHIBIT 5-A**

### **RULE 142.1 - WATER EFFICIENT LANDSCAPE REQUIREMENTS**

- A. Purpose. The purpose of this Rule is to provide landscape standards that minimize water use, eliminate Water Waste, and reduce storm water Runoff by requiring low water landscape plantings, design, and irrigation methods. Pursuant to Government Code Section 65595, this Rule is intended to be at least as effective in water conservation as the State's Model Water Efficient Landscape Ordinance and is intended to apply in lieu of the State Model Water Efficient Landscape Ordinance.
- B. Applicability. The provisions of this Rule shall apply to all of the following categories of landscaping:
1. New Construction projects requiring a grading permit, building permit or design approval with an associated new aggregate Landscape Area equal to or greater than five hundred (500) square feet;
  2. New landscapes requiring a grading permit, building permit or design approval with an aggregate Landscape Area equal to or greater than five hundred (500) square feet;
  3. Rehabilitated Landscapes having an aggregate Landscape Area equal to or greater than two thousand five hundred (2,500) square feet that are associated with a grading permit, building permit or design approval.
- C. Exceptions. This Rule does not apply to:
1. Local, state or federal historical sites listed in either the County's Local Official Register of Historic Resources, the California Register of Historic Places, or the National Register of Historic Places;
  2. Ecological Restoration Projects that do not require a permanent Irrigation System;
  3. Plant collections, as part of botanical gardens and arboretums open to the public;
  4. Agricultural cultivation activities including, but not limited to, the preparation and planting of vegetation on agricultural lands for the production of food, products, or feed for either human or animal consumption;
  5. Construction of structures that do not include changes in existing landscape;
  6. Changes in use of an existing structure that do not include changes to existing landscape;
  7. Private edible plant gardens and/or orchards for personal and individual consumption;

8. Constructed wetlands or other Landscaped Areas that are not irrigated and used solely for on Site waste water treatment;
  9. New, existing or rehabilitated storm water quality projects that are not irrigated and used solely for the purpose of improving Runoff quality and/or retaining Runoff for on Site infiltration;
  10. Natural areas including, but not limited to: open space, native vegetative areas, and Pervious or impervious hardscapes that do not require a permanent Irrigation System;
  11. Erosion control activities (e.g., hydroseeding) that do not require permanent Irrigation Systems;
  12. Existing landscapes installed prior to December 1, 2015 are strongly encouraged to reduce water consumption pursuant to this Rule.
  13. New cemeteries are exempt from the specific requirements of this Rule but are required to engage in landscape maintenance practices that foster long-term water conservation, such as performing routine repair and adjustment of Irrigation Systems, conducting audits of water use, and prescribing the amount of water applied per landscaped acre.
- D. Landscape Manual. The Board may by resolution adopt, and may from time to time amend, the “Monterey Peninsula Water Efficient Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation” (“Landscape Manual”) to establish guidelines to explain and implement this Rule. The Landscape Manual shall explain the specific procedures and technical requirements of this Rule. The Landscape Manual shall include the elements of the Landscape Package for Minor and Major Landscape projects, Water Efficient Landscape Worksheet, Soils Management Report, Planting Design Plan, Irrigation Design Plan, grading information, Minor Certificate of Completion, and Certificate of Completion. If any provisions of the Landscape Manual conflict with any provisions of this Rule, the provisions of this Rule shall prevail.
- E. Minor Landscapes – Minor Landscape Package Submittal Requirements
1. Minor Landscape Projects have an aggregate Landscape Area less than or equal to two thousand five hundred (2,500) square feet.
  2. Any Minor Landscape Project may conform to this Rule either by complying with the full performance standards of the Major Landscape Package or by complying with reduced requirements of the Minor Landscape Package (Appendix D of the Landscape Manual). If the project is complying with the Minor Landscape Package requirements, the requirements must be documented on the Landscape Design Plan.

3. Minor Landscape Projects using treated or untreated Graywater or rainwater captured on Site to meet the entire landscape water requirement (Estimated Total Water Use) are subject only to Appendix D Section (5) of the Landscape Manual.
4. Prior to issuance of a grading permit, building permit, or design approval associated with Minor Landscape Projects subject to this Rule, the Applicant shall submit a Minor Landscape Package to the District for review and approval. The District shall approve the package once it has been verified that the proposed Minor Landscape Project complies with the provisions of this Rule. The approved Landscape Package Submittal Form as provided in the Landscape Manual must be used.
5. If the District denies the Minor Landscape Package application, the District shall provide information to the project Applicant regarding resubmittal with the appropriate information or right of appeal.
6. The Minor Landscape Package shall include:
  - a. Date prepared;
  - b. The project Applicant and contact information, name of and contact information for property owner if different than project Applicant;
  - c. Project location (and Assessor's Parcel Number);
  - d. Project type (i.e., Residential, Non-Residential, Rehabilitated Landscape);
  - e. Total square footage of Landscape Area including a breakdown of Turf, and other plant material;
  - f. Water supply type (e.g., Potable, Recycled Water, Well) and identify the local retail water purveyor if not served by a private Well.
  - g. The Minor Landscape Package shall contain the following statement that shall be signed and dated by the project Applicant:
  - h. "I agree to comply with the Monterey Peninsula Water Management District Minor Landscape requirements including, but not limited to, the use of climate appropriate, non-invasive species, and limited Turf."
7. Landscape Design Plans and Irrigation Design Plans submitted as part of the Minor Landscape Package are not required to be drawn by licensed architect or contractor.
8. Minor Landscape Project Landscape Design. Landscape Design Plans shall include and demonstrate how the landscaping is consistent with the following information:



- a. The landscape design shall incorporate Compost at a rate of at least four (4) cubic yards per one thousand (1,000) square feet to a depth of six (6) inches into the Landscape Area, unless contraindicated by a Soils Management Report.
  - b. A Soils Management Report is not required if Compost is incorporated into the soil per this section of Rule 142-E.
  - c. Residential projects shall include installation of climate adapted plants that require occasional, little or no summer water (average WUCOLS Plant Water Use Factor 0.3) for seventy-five percent (75%) of the plant area, excluding areas solely dedicated to edible plants and areas using Recycled Water.
  - d. Non-Residential projects shall include installation of climate adapted plants that require occasional, little or no summer water (average WUCOLS Plant Water Use Factor 0.3) for one hundred percent (100%) of the plant area, excluding areas solely dedicated to edible plants and areas using Recycled Water.
  - e. Turf shall be limited to twenty percent (20%) of the Landscape Area or up to one thousand five hundred (1,500) square feet, whichever is less, for Residential projects. Planting of Turf shall be prohibited in the following conditions:
    - (1) Non-Residential Minor Landscape Projects;
    - (2) Slopes exceeding ten percent (10%);
    - (3) Planting areas eight (8) feet wide or less; and
    - (4) Street Medians, traffic islands, planter strips, or bulb-outs of any size.
  - f. A minimum three inch (3") layer of Mulch shall be applied on all exposed soil surfaces of planting areas except in Turf areas, creeping or rooting groundcovers, or direct seeding applications where Mulch is contraindicated.
9. Minor Landscape Irrigation System Design. Inefficient landscape irrigation resulting in Water Waste is prohibited. Therefore, Irrigation Systems shall comply with the following requirements:
- a. Automatic Irrigation Controllers are required and must use Evapotranspiration or Soil Moisture Sensing Device data and a Rain Sensor.

- b. Irrigation Controllers shall be of a type which does not lose programming data in the event the primary power source is interrupted.
  - c. Pressure regulators shall be installed on the Irrigation System to ensure the dynamic pressure of the system is within the manufacturer's recommended pressure range.
  - d. Manual shut-off Valves shall be installed as close as possible to the point of connection of the water supply.
  - e. All irrigation emission devices must meet the requirements set in the American National Standards Institute (ANSI) standard, American Society of Agricultural and Biological Engineers'/International Code Council's (ASABE/ICC) 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard." All Sprinkler Heads installed in the landscape must document a Distribution Uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.
  - f. Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produce no Runoff or Overspray.
  - g. Non-Residential Minor Landscape Projects with Landscape Areas of one thousand (1,000) square-feet or greater shall require installation of a Water Meter supplied by the Water Distribution System to measure all exterior water uses.
10. Certificate of Completion. Upon completion of installation of the Minor Landscape Project, but prior to occupancy or final of associated grading or building permits, the project Applicant shall provide the property owner and the District with a Minor Landscape Certificate of Completion.
- a. The Minor Landscape Certificate of Completion shall include all of the following: Project information, a Certificate of Installation, an irrigation schedule, and a landscape and irrigation maintenance schedule.
  - b. The approved form for the Minor Landscape Certificate of Completion as provided in the Landscape Manual must be used.
  - c. A Minor Landscape Certificate of Completion shall not be accepted by the District unless it is complete and meets all the requirements of this section.
  - d. The District shall approve or deny the Certificate of Completion. If the Certificate of Completion is denied, the District shall provide the project Applicant with the opportunity to make correction(s). Decisions to deny a Certificate of Completion are appealable decisions.

- e. Prior to the final of grading or building permits associated with a Minor Landscape Project subject to this Rule, the Minor Landscape Project shall pass a final inspection by the District.

11. Obligations of Property Owner, Successors and Assignees.

- a. All required landscaping and the Irrigation System shall be reasonably maintained for the life of the project to ensure water use efficiency. Information about how to maintain the project shall be provided in the Landscape and Irrigation Maintenance Schedule.
- b. Plants lost due to disease, destruction, or lifecycle shall be replaced and shall comply with all adopted standards for size, species, and irrigation. Replacement with different species is acceptable without amendment to the approved Minor Landscape Package provided that the water use is lower or remains the same as that which was previously approved. Modifications to landscaping that would result in higher water use than approved in the Minor Landscape Package shall require an amendment or new Water Permit as required by the District's Rules.

F. Major Landscapes – Major Landscape Package Submittal Requirements

- 1. Prior to issuance of a grading permit, building permit, or design approval associated with Major Landscape Projects subject to this Rule, the Applicant shall submit a Major Landscape Package to the District for review and approval. The Major Landscape Package shall contain all information and documentation, in sufficient detail, as specified in this section of Rule 142.1 and the Landscape Manual. The General Manager shall approve the package after verifying that the proposed landscape project complies with the provisions of this Rule and the provisions of the Landscape Manual. The approved Landscape Package Application and Submittal Form provided in the Landscape Manual shall be used.
- 2. The Major Landscape Package shall include general project information such as the date prepared, project Applicant and contact information, name of the property owner if different than project Applicant, project location and Assessor's Parcel Number, project type (i.e. Residential, Non-Residential, Rehabilitated Landscape), total square footage of Landscape Area including a breakdown of Turf and other plant material, and water supply or water purveyor.
- 3. A Landscape Design Plan shall be submitted by the Applicant as part of the Major Landscape Package meeting the requirements set forth in Rule 142.1-H.
- 4. An Irrigation Design Plan shall be submitted by the Applicant as part of the Major Landscape Package meeting the requirements set forth in Rule 142.1-I.

5. Major Landscape Projects shall meet the Water Efficient Landscape Requirements set forth in this Rule.
6. A Soils Management Report containing information set forth in Rule 142.1-H-5-b shall be submitted as part of the Major Landscape Package.
7. Upon completion of the Major Landscape Project, a Certificate of Completion shall be submitted to the District consistent with Rule 142.1-N.
8. Prior to Jurisdiction final of a grading permit or building permit for a Major Landscape Project subject to this Rule, the Major Landscape Project shall pass a final inspection by the District.
9. The Major Landscape Package shall contain the following statement:

“I agree to submit a complete Landscape Package that complies with the Monterey Peninsula Water Management District Major Landscape Requirements including, but not limited to, the use of climate appropriate, non-invasive species, and limited Turf.”

This verification shall be signed and dated by the project Applicant.
10. The following statement shall be recorded on the title of the property via a “Notice and Deed Restriction Regarding Limitation on Use of Water on a Property”:

“Subject Property shall comply with MPWMD Rule 142.1, Water Efficient Landscape Requirements. Any increase in the size of the Landscape Area or any change in the plant species to a higher water use species shall require a new or amended Water Permit.”

G. Obligations of Property Owner, Successors and Assignees.

1. All required landscaping and the Irrigation System shall be reasonably maintained for the life of the project to ensure water use efficiency. Information about how to maintain the project shall be provided in the Landscape and Irrigation Maintenance Schedule.
2. Plants lost due to disease, destruction, or lifecycle shall be replaced and shall comply with all adopted standards for size, species, and irrigation. Replacement with different species is acceptable without amendment to the approved Major Landscape Package provided that the Plant Water Use Factor is lower or remains the same as that which was previously approved. Modifications to landscaping that would result in higher water use than approved in the Major Landscape Package shall require a new or amended Water Permit.

H. Landscape Design Plans for Major Landscapes. For the efficient use of water, Landscape Design Plans for Major Landscape Projects shall meet all the requirements listed in this section and in the Landscape Manual. The Landscape Design Plan shall be signed by a licensed Landscape Architect, a licensed Landscape Contractor, or any other person authorized to design a landscape.

1. The Landscape Design Plan shall include grading design that minimizes soil erosion, Runoff, and Water Waste.
2. Landscape Design Plan Minimum Requirements.
  - a. Hydrozone areas shall be designated on the Landscape Design Plan by number, letter, or other designation;
  - b. Identify each Hydrozone as low, moderate, high water, or mixed water use. Temporarily irrigated areas of the landscape shall be included in the low water use Hydrozone for the Water Budget calculation;
  - c. Identify Recreational Areas;
  - d. Identify areas permanently and solely dedicated to edible plants;
  - e. Identify areas irrigated with Recycled Water;
  - f. Identify type of Mulch and application depth;
  - g. Identify soil amendments, type and quantity;
  - h. Identify type and surface area of Water Features;
  - i. Identify hardscapes (Pervious and non-Pervious);
  - j. Identify location, installation details, and 24-hour retention or infiltration capacity of any applicable storm water Best Management Practices that encourage on Site retention and infiltration of storm water. Project Applicant shall refer to the Jurisdiction, waste water processor and/or Regional Water Quality Control Board for information on any applicable storm water technical requirements. Storm water Best Management Practices are encouraged in the Landscape Design Plan;
  - k. Identify any applicable rain harvesting or catchment technologies;
  - l. Identify any applicable Graywater discharge piping, system components and area(s) of distribution;
  - m. Landscape Design Plans shall contain the following statement signed by a licensed Landscape Architect, a licensed Landscape Contractor, or any

other person authorized to design a landscape:

“I have complied with the Monterey Peninsula Water Management District Water Efficient Landscape Requirements including, but not limited to, the use of climate appropriate, non-invasive species, and limited Turf.”

3. Plant Material.

- a. Any plant may be selected for the landscape, providing the Estimated Total Water Use in the Landscape Area does not exceed the Maximum Applied Water Allowance.
- b. Turf shall be limited to twenty percent (20%) of the Landscape Area or up to one thousand five hundred (1,500) square feet, whichever is less, unless the Turf area is designated as a Special Landscape Area and is dedicated as a Recreational Area. Planting of Turf is prohibited in the following conditions:
  - (1) Slopes exceeding ten percent (10%);
  - (2) Planting areas eight (8) feet wide or less; and
  - (3) Street Medians, traffic islands, planter strips, or bulb-outs of any size.
- c. All non-Turf plants shall be selected, spaced, and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site.
- d. Invasive Plant Species are strictly prohibited and eradication of Invasive Plant Species in the Landscape Area is highly encouraged.
- e. Selected plants shall include the use of native and/or climate appropriate species.
- f. Landscape planting shall include the use of drought resistant species.
- g. Where appropriate, landscape planting shall include the use of fire resistant plant species and shall be consistent with fire safe landscaping required by the designated fire district and Chapter 18.56 (Wildfire Protection Standards in State Responsibility Areas) of the Monterey County Code.
- h. Plants with similar water use needs shall be grouped together in distinct Hydrozones. Where irrigation is required, the distinct Hydrozones shall be irrigated with separate Valves.

- i. Plants with low and high water use shall not be included in the same Hydrozone.
  - j. Plants with high water use shall be prohibited in Street Medians.
4. Water Features.
- a. Recirculating water systems shall be used for Water Features.
  - b. Where available, Recycled Water shall be used as a source for decorative Water Features.
  - c. Surface area of a Water Feature shall be included in the High Water Use (Plant Water Use Factor) Hydrozone area of the Water Budget calculation.
  - d. Pool and spa covers are highly recommended.
5. Soil Preparation, Mulch and Amendments.
- a. Landscape Design Plans shall include soil preparation methods, Mulch, and amendments recommended in the Soils Management Report.
  - b. Soils Management Report Requirements for Major Landscapes. A Soils Management Report shall be obtained by the Applicant and submitted with the Major Landscape Package. In order to promote healthy plant growth and prevent excessive erosion and Runoff, the Soils Management Report shall be consistent with the required information outlined in this section and the applicable sections of the Landscape Manual.
    - (1) The Soils Management Report shall be prepared by a certified laboratory and evaluate soils relative to horticulture.
    - (2) The soil analysis shall include: soil texture, Infiltration Rate, pH, total soluble salts, sodium, and percentage of organic matter.
    - (3) Soil samples shall be from the Site and analyzed to identify quality top soil, soil limitations, and soil composition information necessary for planting.
    - (4) Projects with multiple landscape installation (i.e. subdivisions) shall either conduct a soil sampling rate of one (1) in seven (7) lots, or approximately fifteen percent (15%) will satisfy this requirement.
    - (5) Projects with large Landscape Areas shall have a soil sample at a rate of fifteen percent (15%).

- (6) The Soils Management Report shall include recommendations for soil amendments based on the conditions of the Site and the intended planting.
- (7) The Soils Management Report shall be completed in a timely manner and made available to the professionals preparing the Landscape Design Plan and the Irrigation Design Plan.
- (8) If significant mass grading is not planned, the Soil Management Report shall be submitted to the District as part of the Landscape Package.
- (9) If significant mass grading is planned, the Soil Management Report shall be submitted to the District as part of the Certificate of Completion.
- (10) The project Applicant shall submit documentation verifying implementation of Soil Management Report recommendations to the District with the Certificate of Completion.

c. Mulch and Amendments.

- (1) Prior to the planting of any materials, compacted soils shall be transformed to a Friable condition. On engineered slopes, only amended planting holes need to meet this requirement.
- (2) Soil amendments shall be incorporated according to recommendations of the Soils Management Report and what is appropriate for the plants selected.
- (3) For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square-feet of permeable area shall be incorporated to a depth of six inches (6") into the soil. Soils with greater than six percent (6%) organic matter in the top six inches (6") of soil are exempt from adding Compost and tilling.
- (4) A minimum three inch (3") layer of Mulch shall be applied on all exposed soil surfaces of planting areas except in Turf areas, creeping or rooting groundcovers, or direct seeding applications where Mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to five percent (5%) of the Landscape Area may be left without Mulch. Designated insect habitat shall be included in the Landscape Design Plan.
- (5) Stabilizing Mulching products shall be used on slopes that meet current engineering standards.



- (6) The Mulching portion of the seed/Mulch slurry in hydroseeded applications shall meet the Mulching requirement.
- (7) Organic Mulch materials made from recycled or postconsumer products shall take precedence over inorganic materials or virgin forest products unless the recycled, postconsumer products are not locally available. Organic Mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.

6. Grading Design Plan.

- a. For the efficient use of water, grading of a project Site shall be designed to minimize soil erosion, Runoff, and Water Waste. A grading plan shall be submitted to the Jurisdiction for review. A comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement.
- b. The project Applicant shall submit a landscape grading plan that indicates finished configurations and elevations of the Landscape Area including:
  - (1) Height of graded slopes;
  - (2) Drainage patterns;
  - (3) Pad elevations;
  - (4) Finish grade; and
  - (5) Storm water retention improvements, if applicable.
- c. To prevent excessive erosion and Runoff, it is highly recommended that project Applicants:
  - (1) Grade so that all irrigation and normal rainfall remains within property lines and does not drain on to non-permeable hardscapes;
  - (2) Avoid disruption of natural drainage patterns and undisturbed soil; and
  - (3) Avoid soil compaction in Landscape Areas.
- d. The grading design plan shall contain the following statement that shall bear the signature of a licensed professional as authorized by law:

“I have complied with the criteria of the Monterey Peninsula Water Management District Water Efficient Landscape Requirements and applied them accordingly for the efficient use of water in the grading design plan.”

I. Irrigation Design Plans for Major Landscapes.

1. This section applies to Landscaped Areas requiring permanent irrigation, not areas that require temporary irrigation solely for the plant establishment period.
2. The Irrigation Design Plan shall be drawn by a licensed Landscape Architect, a licensed Landscape Contractor, a Certified Irrigation Designer, or any other person authorized to design a landscape.
3. Irrigation Design Plan Minimum Requirements.
  - (a) Location and size of separate Water Meters for landscape;
  - (b) Location, type and size of all components of the Irrigation System, including Controllers, main and Lateral Lines, valves, Sprinkler Heads, Soil Moisture Sensing Devices, Rain Sensors, quick couplers, pressure regulators, and Backflow Prevention Devices;
  - (c) Static water pressure at the point of Connection to the water supply;
  - (d) Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station;
  - (e) Recycled Water Irrigation Systems.
    - (1) All Recycled Water Irrigation Systems shall be designated and operated in accordance with all applicable local and State laws.
    - (2) Landscapes using Recycled Water are considered Special Landscape Areas. The Evapotranspiration Adjustment Factor for new and existing (not Rehabilitated Landscape) Special Landscape Areas shall not exceed 1.0.
  - (f) Irrigation Design Plans shall contain the following statement signed by a licensed Landscape Architect, Certified Irrigation Designer, licensed Landscape Contractor, or any other person authorized to design an Irrigation System:

“I have complied with the criteria of the Monterey Peninsula Water Management District Water Efficient Landscape Requirements and applied them accordingly for the efficient use of water in the Irrigation Design Plan.”

4. Irrigation System Design. For the efficient use of water, an Irrigation System shall meet all the following design requirements and the manufacturers' recommendations and shall be submitted as part of the Landscape Package:
- (a) All Non-Residential landscapes receiving a Water Permit that include irrigated landscapes of 1,000 square-feet or greater shall utilize a separate Water Meter supplied by the local water purveyor to measure all exterior water uses.
  - (b) All Residential irrigated landscapes of 5,000 square-feet or greater shall install a separate privately owned Water Meter to measure outdoor water use.
  - (c) Automatic Irrigation Controllers utilizing either Evapotranspiration or Soil Moisture Sensing Device data utilizing non-volatile memory shall be required for irrigation scheduling in all Irrigation Systems.
  - (d) If the water pressure is below or exceeds the recommended pressure of the specified irrigation devices, the installation of a pressure regulating device is required to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.
  - (e) A Rain Sensor (either integral or auxiliary) that suspends irrigation operation during and for 48 hours after Measurable Precipitation shall be required on all Irrigation Systems.
  - (f) Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection to the water supply, to minimize water loss in case of an emergency (such as a main line break) or routine repair.
  - (g) Backflow Prevention Devices shall be required to protect the water supply from contamination by the Irrigation System. A project Applicant shall refer to the applicable local agency code (i.e., public health) for additional Backflow Prevention Device requirements.
  - (h) Flow Sensors that detect high flow conditions created by system damage or malfunction are required for all Non-Residential landscapes and Residential landscapes of 5,000 square-feet or greater.
  - (i) Master Shut-Off Valves are required on all projects except landscapes that make use of technologies that allow for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.
  - (j) The Irrigation System shall be designed to prevent Runoff, low head

drainage, Overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

- (k) Relevant information from the Soils Management Report, such as soil type and Infiltration Rate, shall be utilized when designing Irrigation Systems.
- (l) The design of the Irrigation System shall conform to the Hydrozones of the Landscape Design Plan.
- (m) The Irrigation System must be designed and installed to meet the Irrigation Efficiency criteria calculated in the Water Efficient Landscape Worksheet.
- (n) All irrigation emission devices must meet the requirements set in the American National Standards Institute (ANSI) standard, American Society of Agricultural and Biological Engineers'/International Code Council's (ASABE/ICC) 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard." All Sprinkler Heads installed in the landscape must document a Distribution Uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.
- (o) In Mulched planting areas, the use of a Low Volume Irrigation System is required to maximize water infiltration into the root zone.
- (p) Sprinkler Heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.
- (q) Head to head coverage is recommended. However, sprinkler spacing shall be designed to achieve the highest possible Distribution Uniformity using the manufacturer's recommendations.
- (r) Swing Joints or other rise-protection components are required on all risers subject to damage that are adjacent to hardscapes or in high traffic areas of Turf grass.
- (s) Check Valves or anti-drain valves are required on all Sprinkler Heads where low point drainage could occur.
- (t) Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no Runoff or Overspray.
- (u) Overhead irrigation shall not be permitted within 24 inches of any non-permeable surface. Allowable irrigation within the setback from

non-permeable surfaces may include drip, drip line, or other low flow non-spray technology. The setback area may be planted or unplanted. The surfacing of the setback may be Mulch, gravel, or other porous material. These restrictions may be modified if:

- (1) The Landscape Area is adjacent to permeable surfacing and no Runoff occurs; or
  - (2) The adjacent non-permeable surfaces are designed and constructed to drain entirely to the landscaping; or
- (v) Slopes greater than 25 percent shall not be irrigated with an Irrigation System with an application rate exceeding 0.75 inches per hour. This restriction may be modified if the landscape designer specifies an alternative design or technology, as part of the Landscape Package, and clearly demonstrates no Runoff or erosion will occur. Prevention of Runoff and erosion shall be confirmed during the Irrigation Audit.
- (w) Hydrozones.
- (1) Each valve shall irrigate a Hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use.
  - (2) Sprinkler Heads and other emission devices shall be selected based on what is appropriate for the plant type within that Hydrozone.
  - (3) Where feasible, trees shall be placed on separate valves from shrubs, groundcovers, and Turf to facilitate the appropriate irrigation of trees. The mature size and extent of the root zone shall be considered when designing irrigation for the tree.
  - (4) Individual Hydrozones that mix moderate and Low Water Use Plants, or Moderate and High Water Use Plants, may be allowed if the Plant Water Use Factor of the higher water using plant is used for the Water Budget calculations.
  - (5) Individual Hydrozones that mix Low and High Water Use Plants are prohibited.
  - (6) On the Irrigation Design Plan, Hydrozone areas shall be designated by number, letter, or other designation. On the Irrigation Design Plan, designate areas irrigated by each valve.

J. Water Efficient Landscape Worksheet for Major Landscapes.

1. To ensure Major Landscape Projects conserve water to the maximum extent possible, information included within the Water Efficient Landscape Worksheet shall be consistent with the requirements listed in this Rule.
2. Water Budget. Water Budget calculations shall meet the following requirements:
  - (a) The surface area of all Water Features shall be calculated as high water use and incorporated within a high water use Hydrozone.
  - (b) Temporarily irrigated areas shall be calculated as low water use and incorporated within a low water use Hydrozone.
  - (c) Water Budget calculations for the Maximum Applied Water Allowance shall be calculated using the formula found in the Landscape Manual. Special Landscape Areas, as defined in this Rule, and areas irrigated with Recycled Water, are subject to Maximum Applied Water Allowance with an Evapotranspiration Adjustment Factor not to exceed 1.0.
  - (d) The calculation of a project's Estimated Total Water Use shall be performed using the formula found in the Landscape Manual.
  - (e) For calculation of the Maximum Applied Water Allowance and Estimated Total Water Use, the project Applicant shall use the annual Evapotranspiration values contained in Appendix A of the Landscape Manual.
  - (f) Landscape projects subject to this Rule shall not apply water to the landscape in excess of the maximum amount of water allowed. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance.

K. Alternative Water Sources in the Landscape.

1. Rain gardens, Cisterns and other landscape features and practices that increase rainwater capture and create opportunities for infiltration and/or onsite storage are recommended. Rainwater catchment systems shall meet the requirements of the Monterey County Environmental Health Bureau.
2. To promote the efficient use of water, the use of Graywater

systems for irrigation is recommended. Graywater systems shall meet the requirements of the California Plumbing Code, including any modifications adopted by Monterey County, and are subject to approval by the Monterey County Environmental Health Bureau.

3. Landscape projects in the Unincorporated County Jurisdiction using treated or untreated Graywater or rainwater captured on Site to irrigate the entire Landscape Area shall be subject to the approval of the Monterey County Environmental Health Bureau.
4. All Recycled Water Irrigation Systems shall be designed and operated in accordance with all State and County laws and regulations related to Recycled Water use.
5. Landscape projects subject to this Rule shall incorporate the use of Recycled Water for irrigation when, in the determination of the District, Recycled Water is available and connection to Recycled Water is feasible.

L. Irrigation Schedules.

1. For the efficient use of water, all irrigation schedules shall be developed, managed and evaluated to utilize the minimum amount of water required to maintain plant health. The irrigation schedule shall be developed by a Landscape Architect, Landscape Contractor, or any other person authorized to install irrigation equipment.
2. Irrigation scheduling shall be regulated by Automatic Irrigation Controllers using current Reference Evapotranspiration data or Soil Moisture Sensing Device data.
3. Overhead irrigation shall be scheduled between 8:00 p.m. and 9:00 a.m.
4. Operation of the Irrigation System outside the normal watering window is allowed for auditing and system maintenance.
5. For implementation of the irrigation schedule, particular attention must be paid to irrigation run times, emission device, Flow Rate, and current Reference Evapotranspiration, so that Applied Water meets the Estimated Applied Water Use. Total annual Applied Water shall be less than or equal to Maximum Applied Water Allowance.

6. Parameters used to set the automatic Controller shall be developed and

submitted for each of the following:

- (a) The plant establishment period;
  - (b) The established landscape; and
  - (c) Temporarily irrigated areas.
7. The irrigation schedule shall be consistent with the requirements of this Rule and shall consider for each station all of the following that apply:
- (a) Irrigation interval (days between irrigation);
  - (b) Irrigation run times (hours or minutes per irrigation event to avoid Runoff);
  - (c) Number of cycle starts required for each irrigation event to avoid Runoff;
  - (d) Amount of Applied Water scheduled to be applied on a monthly basis;
  - (e) Application rate setting;
  - (f) Root depth setting;
  - (g) Plant type setting;
  - (h) Soil type;
  - (i) Slope factor setting;
  - (j) Shade factor setting; and
  - (k) Irrigation uniformity or efficiency setting.
8. The irrigation schedule shall be submitted with the landscape Certificate of Completion pursuant to this Rule.

M. Landscape Planting and Maintenance Schedule.

1. In order to maintain plant health and functioning irrigation equipment, a landscape planting and irrigation maintenance schedule shall be developed incorporating the requirements of this section, the applicable sections of the Landscape Manual, and include the following:
- (a) A regular maintenance schedule shall be developed by a Landscape Architect, Landscape Contractor, or any other person authorized to design and maintain landscape planting and irrigation.



- (b) A regular maintenance schedule shall include, but is not limited to, routine inspection, adjustment, and repair of the Irrigation System and its components.
- (c) A note shall be included stating that any replacement plants shall not exceed the water use for the Hydrozone.
- (d) A regular maintenance schedule shall make provisions for irrigation inspections, systems tune-up, and system tests with Distribution Uniformity preventing Overspray or Runoff that causes overland flow.
- (e) The regular maintenance schedule shall be submitted with the landscape Certificate of Completion consistent with this Rule.

N. Certificate of Completion Requirements for Major Landscapes.

- 1. Upon completion of installation of a Major Landscape Project, but prior to occupancy or final of the associated grading or building permits, the project Applicant shall provide the property owner and the District with a Certificate of Completion. The Certificate of Completion shall comply with the requirements of this Rule.
- 2. The Certificate of Completion shall include all of the following:
  - (a) Project information;
  - (b) Certification for installation of the landscape planting and irrigation;
  - (c) The proposed irrigation schedule;
  - (d) An Irrigation Audit conducted by a Certified Landscape Irrigation Auditor. The audit shall not be conducted by the person who designed and/or installed the landscape.
  - (e) The proposed Landscape and Irrigation Maintenance Schedule; and
  - (f) Verification of implementing recommendations of the Soils Management Report.
- 3. The Certificate of Completion shall be signed by either the person or entity who signed the Landscape Design Plan, the person or entity who signed the Irrigation Design Plan, or the licensed Landscape Contractor who installed the landscape.
- 4. If minor changes were made during installation, Record Drawing or As-Built Plans shall be included with the certification. Record Drawing or As-Built Plans must be in conformance with this Rule.

5. If significant changes such as an increase in the size of the Landscape Area or any change in the plant species to a higher water use species were made during installation, the project shall require an amendment to the approved Major Landscape Package as required by this Rule.
  6. A copy of the approved form for the Certificate of Completion can be found in the Landscape Manual.
  7. A Certificate of Completion shall not be accepted by the District unless it is complete and meets all the requirements of this Rule.
  8. The District shall approve or deny the Certificate of Completion. If the Certificate of Completion is denied, the District shall provide the project Applicant with the opportunity to make correction(s). Decisions to deny a Certificate of Completion are appealable decisions.
- O. Inspection Requirements. Prior to the final of grading or building permits associated with Major and Minor Landscape Projects subject to the provisions of this Rule, inspection by the District or its designated agent to verify compliance with the approved Landscape Package shall be required.
- P. Amendments.
1. Proposed amendments to an approved Minor Landscape Package shall be submitted to the District for review and approval prior to submittal of the Certificate of Completion. The amendment shall be in writing, in sufficient detail to adequately address the nature of the amendment and demonstrate consistency with the requirements of this Rule. Amendments shall be processed in the same manner as the Landscape Package application.
  2. Proposed amendments to an approved Major Landscape Package shall be submitted to the District for review and approval prior to submittal of the Certificate of Completion. The amendment shall be in writing, in sufficient detail to adequately address the nature of the amendment and demonstrate consistency with the requirements of this Rule. Amendments shall be processed in the same manner as the Landscape Package application.
- Q. Appeals. Any denial by the General Manager or his/her designee of a Minor or Major Landscape Package, Minor Landscape Certificate of Completion, or Certificate of Completion pursuant to this Rule may be appealed by the Applicant to the Board of Directors pursuant to Rule 70.
- R. Existing Landscapes. The purpose of this section is to encourage reduction of excessive water use in landscapes through public education.
1. Existing landscapes installed prior to December 1, 2015 are strongly encouraged to reduce water consumption through participation in water conservation

programs, including but not limited to those listed in this section.

2. Existing landscapes located within the Monterey Peninsula Water Management District are strongly encouraged to participate in applicable landscape Rebate programs, landscape water audit/budget analysis and/or any other available water conservation programs to the greatest extent feasible.
3. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this Rule.
  - (a) Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as Hydrozones, irrigation equipment, use of native plants, Graywater systems and rainwater catchment systems to demonstrate low water use approaches and techniques in landscaping.

S. The following definitions are used in this Rule and in the Landscape Manual:

APPLIED WATER – “Applied Water” shall mean the portion of water supplied by the Irrigation System to the landscape.

AS-BUILT DRAWINGS – “As-Built Drawings” shall mean landscape drawings prepared by the contractor that show, in red ink, on Site changes to the original landscape construction documents.

AUTOMATIC IRRIGATION CONTROLLER – “Automatic Irrigation Controller” shall mean a timing device used to remotely control valves that operate an Irrigation System. Automatic Irrigation Controllers are able to self-adjust and schedule irrigation events using either Evapotranspiration (weather-based) or soil moisture data.

BACKFLOW PREVENTION DEVICE – “Backflow Prevention Device” shall mean a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water.

CALIFORNIA INVASIVE PLANT INVENTORY – “California Invasive Plant Inventory” shall mean the California Invasive Plant Inventory maintained by the California Invasive Plant Council.

CERTIFICATE OF COMPLETION – “Certificate of Completion” shall mean a document certifying completion of a landscape in compliance with the Monterey Peninsula Water Management District Water Efficient Landscape Requirements.

CERTIFIED IRRIGATION DESIGNER – “Certified Irrigation Designer” shall mean a Person certified to design Irrigation Systems by an accredited academic institution, a professional trade organization or other program such as the United States Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.

CERTIFIED LANDSCAPE IRRIGATION AUDITOR – “Certified Landscape Irrigation Auditor” shall mean a Person certified to perform landscape Irrigation Audits by an accredited academic institution, a professional trade organization or other program such as the United States Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.

CHECK VALVE – “Check Valve” shall mean a valve located under a sprinkler head, or other location in the Irrigation System, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off. Check Valve is also known as an anti-drain Valve

COMMON INTEREST DEVELOPMENTS – “Common Interest Developments” shall mean community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section 1351.

COMPOST – “Compost” shall mean the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

CONTROLLER – “Controller” shall mean an automatic timing device used to remotely control valves or heads to operate an Irrigation System. A weather-based Controller is a Controller that utilizes Evapotranspiration or weather data to make adjustments to irrigation schedules. A self-adjusting irrigation Controller is a Controller that uses on Site sensor data (e.g., soil moisture) to adjust irrigation schedules.

CONVERSION FACTOR (0.62) – “Conversion Factor (0.62)” shall mean the number that converts acre-inches per acre per year to gallons per square foot per year.

DISTRIBUTION UNIFORMITY – “Distribution Uniformity” shall mean the measure of the uniformity of irrigation water over a defined area.

DRIP IRRIGATION – “Drip Irrigation” shall mean any non-spray Low Volume Irrigation System utilizing emission devices with a Flow Rate measured in gallons per hour. Low Volume Irrigation Systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants. The term “Drip Irrigation” shall have the same meaning as “Micro Irrigation” and “Trickle Irrigation.”

ECOLOGICAL RESTORATION PROJECT – “Ecological Restoration Project” shall mean a project where the Site is intentionally altered to establish a defined, indigenous, historic ecosystem.

EFFECTIVE PRECIPITATION – “Effective Precipitation” (“Eppt”) shall mean the portion of total precipitation which becomes available for plant growth. Effective Precipitation is also known as “useable rainfall.”

EMITTER – “Emitter” shall mean a Drip Irrigation emission device that delivers water slowly from the system to the soil.

ESTABLISHED LANDSCAPE – “Established Landscape” shall mean the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

ESTABLISHMENT PERIOD OF THE PLANTS – “Establishment Period of the Plants” shall mean the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth. Native habitat mitigation areas and trees may need three to five years for establishment.

ESTIMATED TOTAL WATER USE (ETWU) – “Estimated Total Water Use” (“ETWU”) shall mean the total water used for the landscape based on the plants used in the landscape design.

EVAPOTRANSPIRATION ADJUSTMENT FACTOR or ET ADJUSTMENT FACTOR – “Evapotranspiration Adjustment Factor” or “ET Adjustment Factor” (“ETAF”) shall mean, except for Special Landscape Areas, a factor of 0.55 for Residential projects and 0.45 for Non-Residential projects that, when applied to Reference Evapotranspiration, adjusts for Plant Water Use Factors and Irrigation Efficiency.

EVAPOTRANSPIRATION RATE – “Evapotranspiration Rate” shall mean the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

FLOW RATE – “Flow Rate” shall mean the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

FLOW SENSOR – “Flow Sensor” shall mean an inline device installed at the supply point of the Irrigation System that produces a repeatable signal proportional to Flow Rate. Flow Sensors must be connected to an Automatic Irrigation Controller, or flow monitor capable of receiving flow signals and operating Master Shut-Off Valves. The combination Flow Sensor/Controller may also function as a landscape Water Meter or sub-meter.

FRIABLE – “Friable” shall mean a soil condition that is easily crumbled or loosely compacted down to a minimum depth per planting material requirements, whereby the root structure of newly planted material will be allowed to spread unimpeded.

GRAYWATER -- “Graywater” shall mean untreated waste water which has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. “Graywater” includes, but is not limited to; waste water from bathtubs, showers, Bathroom Washbasins, clothes washing machines and laundry tubs. It does not include waste water from Kitchen Sinks and Dishwashers. Health and Safety Code Section 17922.12. “Graywater” shall have the

same meaning as “Greywater.”

HIGH WATER USE PLANT – “High Water Use Plant” shall mean any plant categorized as high water need by the Water Use Classification of Landscape Species guide (“WUCOLS”).

HYDROZONE – “Hydrozone” shall mean a portion of the Landscape Area having plants with similar water needs and rooting depths served by a valve or set of valves with the same schedule. A Hydrozone may be irrigated or non-irrigated.

INFILTRATION RATE – “Infiltration Rate” shall mean the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

INVASIVE PLANT SPECIES – “Invasive Plant Species” shall mean a species of plants not historically found in California that spreads outside cultivated areas and can damage environmental or economic resources and is listed as an Invasive Plant Species in either the California Invasive Plant Inventory; USDA invasive, noxious weeds database, or the Landscape Manual.

IRRIGATION AUDIT – “Irrigation Audit” shall mean an in-depth evaluation of the performance of an Irrigation System conducted by a Certified Landscape Irrigation Auditor. An Irrigation Audit shall include, but is not limited to: inspection, system tune-up, system test with Distribution Uniformity or emission uniformity, reporting Overspray or Runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association’s Landscape Irrigation Auditor certification program or other U.S. Environmental Protection Agency “WaterSense” labeled auditing program.

IRRIGATION DESIGN PLAN – “Irrigation Design Plan” “IE” shall mean an irrigation plan and drawings designed and signed by a licensed Landscape Architect, Certified Irrigation Designer, licensed Landscape Contractor, or any other Person authorized to design an Irrigation System (see Sections 5615, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agricultural Code).

IRRIGATION EFFICIENCY – “Irrigation Efficiency” shall mean the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation Efficiency is derived from measurements and estimates of Irrigation System characteristics and management practices. The Irrigation Efficiency is 0.75 for overhead spray devices and 0.81 for drip systems.

IRRIGATION METER – “Irrigation Meter” shall mean a separate meter that measures the amount of water used for irrigation.

IRRIGATION SURVEY – “Irrigation Survey” shall mean an evaluation of an Irrigation System that is less detailed than an Irrigation Audit.



IRRIGATION WATER USE ANALYSIS – “Irrigation Water Use Analysis” shall mean an analysis of water use data based on meter readings and billing data.

LANDSCAPE ARCHITECT – “Landscape Architect” shall mean a Person who holds a license to practice landscape architecture in the State of California (California Business and Professions Code Section 5615).

LANDSCAPE AREA -- “Landscape Area” shall mean all the planting areas, Turf areas, and Water Features in a Landscape Design Plan subject to the Maximum Applied Water Allowance and the Estimated Applied Water Use calculations. The Landscape Area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other Pervious or non-Pervious hardscapes, and other non-irrigated areas designated for non-development (e.g. Open Spaces and existing Native Vegetation).

LANDSCAPE CONTRACTOR – “Landscape Contractor” shall mean a Person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

LANDSCAPE DESIGN PLAN – “Landscape Design Plan” shall mean a plan (and drawings) that: (1) delineates and labels each Hydrozone; (2) identifies each Hydrozone as low, moderate, high water, or mixed water use; (3) identifies any Recreational Areas; (4) identifies areas permanently and solely dedicated to edible plants; (5) identifies areas irrigated with Recycled Water; (6) identifies type of Mulch and application depth; (7) identifies soil amendments, type, and quantity; (8) identifies type and surface area of any Water Features; (9) identifies hardscapes (Pervious and non-Pervious); (10) identifies applicable storm water Best Management Practices; (11) identifies any applicable rain harvesting or catchment technologies; and (12) identifies any applicable Graywater discharge piping, system components and area(s) of distribution. A Landscape Design Plan must be signed by a licensed Landscape Architect, Certified Irrigation Designer, licensed Landscape Contractor, or any other Person authorized to design an Irrigation System (see Permitted Practices in California prepared by the Landscape Architects Technical Committee (LATC), the licensing and regulatory agency for the practice of landscape architecture in California). “Landscape Design Plan” shall also be known as a “Planting Plan.”

LANDSCAPE MANUAL – “Landscape Manual” shall mean the “Monterey Peninsula Water Management District Landscape Manual – Standards and Specified Performance Requirements for Water Efficient Landscape Water Use and Irrigation.”

LANDSCAPE PACKAGE– “Landscape Package” shall mean the landscape Water Permit application and materials required to be submitted for review and approval by the MPWMD.

LANDSCAPE WATER METER – “Landscape Water Meter” shall mean an inline device installed at the irrigation supply point that measures the flow of water into the Irrigation System and is connected to a totalizer to record water use.

LATERAL LINE – “Lateral Line” shall mean the water delivery pipeline that supplies water to the Emitters or sprinklers from the valve.

LOCAL WATER PURVEYOR – “Local Water Purveyor” shall mean any entity, including a public agency, city, county or private water company that provides retail water service.

LOW VOLUME IRRIGATION SYSTEM – “Low Volume Irrigation System” shall mean the application of irrigation water at low pressure through a system of tubing or Lateral Lines and low-volume Emitters such as drip, drip lines, and bubblers. Low Volume Irrigation Systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

LOW WATER USE PLANT – “Low Water Use Plant” shall mean any plant categorized as low water need by the Water Use Classification of Landscape Species (“WUCOLS”) guide.

MAJOR LANDSCAPE PROJECT – “Major Landscape Project” shall mean landscape projects with an aggregate Landscape Area greater than two thousand five hundred (2,500) square feet.

MASTER SHUT-OFF VALVE – “Master Shut-Off Valve” shall mean an automatic valve installed at the irrigation supply point which controls water flow into the Irrigation System. When this valve is closed, water will not be supplied to the Irrigation System. A Master Shut-Off Valve will greatly reduce any water loss due to a leaky station valve.

MAXIMUM APPLIED WATER ALLOWANCE – “Maximum Applied Water Allowance” shall mean the upper limit of annual Applied Water for the established Landscape Area. It is based upon the area’s Reference Evapotranspiration, the ET Adjustment Factor, and the size of the Landscape Area.

MICRO IRRIGATION – “Micro Irrigation” shall mean any non-spray Low Volume Irrigation System utilizing emission devices with a Flow Rate measured in gallons per hour. Low Volume Irrigation Systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants. The term “Micro Irrigation” shall have the same meaning as “Drip Irrigation” and “Trickle Irrigation.”

MICROCLIMATE – “Microclimate” shall mean the climate of a small, specific area that may contrast with the climate of the overall Landscape Area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

MINOR LANDSCAPE PROJECT – “Minor Landscape Project” shall mean landscape projects with an aggregate Landscape Area less than or equal to two thousand five hundred (2,500) square feet.

MODERATE WATER USE PLANT – “Moderate Water Use Plant” shall mean any plant categorized as moderate water need by the Water Use Classification of Landscape



Species (“WUCOLS”) guide.

MULCH – “Mulch” shall mean any organic material such as leaves, bark, straw, Compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

NON-RESIDENTIAL LANDSCAPE – “Non-Residential Landscape” shall mean landscapes in commercial, institutional, industrial and public settings that may have areas designated for recreation or public assembly. It also includes portions of common areas of Common Interest Developments with designated Recreational Areas.

OPERATING PRESSURE – “Operating Pressure” shall mean the pressure at which the parts of an Irrigation System are designed by the manufacturer to operate.

OVERHEAD SPRINKLER IRRIGATION SYSTEM – “Overhead Sprinkler Irrigation System” or “Overhead Irrigation System” shall mean systems that deliver water through the air (for example pop-ups, impulse sprinklers, spray heads, rotors, and micro-sprays).

OVERSPRAY – “Overspray” shall mean the irrigation water that is delivered beyond the Landscape Area, wetting pavements, walks, structures, or other non-Landscaped Areas.

PARKWAY – “Parkway” shall mean the area between a sidewalk and the curb or traffic lane. It may be planted or unplanted, and with or without pedestrian egress.

PERVIOUS – “Pervious” shall mean any surface or material that allows the passage of water through the material and into the underlying soil.

PLANT WATER USE FACTOR – “Plant Water Use Factor” shall mean a value, when multiplied by “Reference Evapotranspiration,” that estimates the amount of water needed by plants. The Plant Water Use Factor range for very Low Water Use Plants is less than 0.1, the Plant Water Use Factor range for Low Water Use Plants is 0.1 to 0.3, the Plant Water Use Factor range for Moderate Water Use Plants is 0.4 to 0.6, and the Plant Water Use Factor range for High Water Use Plants is 0.7 to 1.0. Plant Water Use Factors are derived from the publication “Water Use Classification of Landscape Species.” Plant Water Use Factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources.

PLANTING PLAN – “Planting Plan” shall have the same meaning as “Landscape Design Plan.”

RAIN SENSING SHUTOFF DEVICE – “Rain Sensing Shutoff Device” shall mean a component of an Irrigation System which automatically suspends irrigation when it rains. The term “Rain Sensing Shutoff Device” shall have the same meaning as the term “Rain Sensor.”

RAIN SENSOR – “Rain Sensor” shall mean a component of an Irrigation System which automatically suspends irrigation when it rains. The term “Rain Sensor” shall have the same meaning as the term “Rain Sensing Shutoff Device.”

RECORD DRAWINGS – “Record Drawings” shall mean landscape documents prepared by the Landscape Architect that reflect on Site changes the contractor noted in the As-Built Drawings. They are often compiled as a set of on Site changes made for the owner per the owner-architect contract

RECREATIONAL AREA – “Recreational Area” shall mean areas, excluding private Single Family Residential areas, designated for active play, recreation or public assembly in parks, sports fields, picnic grounds, amphitheaters or golf course tees, fairways, roughs, surrounds and greens.

RECYCLED WATER – “Recycled Water” shall mean treated or recycled waste water of a quality suitable for Sub-potable uses such as landscape irrigation and Water Features. This water is not intended for human consumption.

REFERENCE EVAPOTRANSPIRATION – “Reference Evapotranspiration” shall mean a standard measurement of environmental parameters which affects the water use of plants. Reference Evapotranspiration is expressed in inches per day, month, or year, and is an estimate of the Evapotranspiration of a large field of four to seven inches tall, cool-season grass that is well watered. Reference Evapotranspiration is used as the basis of determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.

REHABILITATED LANDSCAPE – “Rehabilitated Landscape” shall mean any re-landscaping of existing landscapes where the modified Landscape Area is equal to or greater than two thousand five hundred (2,500) square feet.

RESIDENTIAL LANDSCAPE – “Residential Landscape” shall mean landscape surrounding single or multifamily homes.

RUNOFF – “Runoff” shall mean water which is not absorbed by the soil or landscape to which it is applied and flows from the Landscape Area. For example, Runoff may result from water that is applied at too great a rate (application rate exceeds Infiltration Rate) or when there is a slope.

SOILS MANAGEMENT REPORT – “Soils Management Report” shall mean an analysis of the existing soil conditions relative to horticulture (versus agriculture or structural integrity) resulting in recommendations of appropriate soil amendments.

SOIL MOISTURE SENSING DEVICE – “Soil Moisture Sensing Device” shall mean a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

SOIL TEXTURE – “Soil Texture” shall mean the classification of soil based on its percentage of sand, silt, and clay.

SPECIAL LANDSCAPE AREA (SLA) – “Special Landscape Area” or “SLA” shall mean an area of the landscape irrigated with Recycled Water, Water Features using Recycled Water, and areas dedicated to active play such as parks, sports fields, golf courses, and where Turf provides a playing surface.

SPRINKLER HEAD – “Sprinkler Head” shall mean a device which delivers water through a nozzle.

STATIC WATER PRESSURE – “Static Water Pressure” shall mean the pipeline water supply pressure when water is not flowing.

STORM WATER CONTROL FACILITY – “Storm Water Control Facility” shall mean a structural feature intended to control or reduce storm water Runoff and associated pollutants, to induce or control the infiltration or Groundwater recharge of storm water, or to eliminate illicit or illegal non-storm water discharges into storm water conveyances.

STORM WATER CONTROL MEASURE – “Storm Water Control Measure” shall mean any structural or non-structural strategy, practice, technology, process, program or other method intended to control or reduce storm water Runoff and associated pollutants, or to induce or control the infiltration or Groundwater recharge of storm water, or to eliminate illicit or illegal non-storm water discharges into storm water conveyances. Storm Water Control Measures include Storm Water Control Facilities.

STREET MEDIAN – “Street Median” shall mean an area between opposing lanes of traffic that may be unplanted or planted with trees, shrubs, perennials, and ornamental grasses.

SWING JOINT – “Swing Joint” shall mean an irrigation component that provides a flexible, leak-free connection between the emission device and lateral pipeline to allow movement in any direction and to prevent equipment damage.

TRICKLE IRRIGATION - “Trickle Irrigation” shall mean shall mean any non-spray Low Volume Irrigation System utilizing emission devices with a Flow Rate measured in gallons per hour. Low Volume Irrigation Systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants. The term “Trickle Irrigation” shall have the same meaning as “Drip Irrigation” and “Micro Irrigation.”

TURF – “Turf” shall mean a ground cover surface of mowed grass and does not include artificial Turf surfaces. For example, Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses and Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

VALVE – “Valve” shall mean a device used to control the flow of water in the Irrigation System.

WATER BUDGET – “Water Budget” shall mean a maximum annual water allowance in gallons per year that takes into consideration the types of plants, Evapotranspiration Rates and Irrigation System.

WATER CONSERVING PLANT SPECIES– “Water Conserving Plant Species” shall mean a plant species identified as having a low Plant Water Use Factor.

WATER EFFICIENT LANDSCAPE WORKSHEET – “Water Efficient Landscape Worksheet” shall mean the form used in the Landscape Package to calculate the Water Budget for a landscape. The form is found in Appendix B of the Landscape Package.

WATER FEATURE – “Water Feature” shall mean a design element where open water performs an aesthetic or recreational function. Water Features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and Swimming Pools where water is artificially supplied. The surface area of Water Features is included in the high water use Hydrozone of the Landscape Area. Constructed facilities used for on Site waste water treatment or Storm Water Control Measures that are not irrigated and used solely for water treatment or storm water retention are not considered Water Features.

WATERING STATION – “Watering Station” shall mean an area served by one Valve or by a set of Valves that operate simultaneously.

WATERING WINDOW – “Watering Window” shall mean the time of day irrigation is allowed.

WEATHER BASED IRRIGATION CONTROLLER -- “Weather Based Irrigation Controller” shall mean an Irrigation System component that uses local weather conditions and landscape conditions to adjust irrigation schedules automatically to actual conditions on the Site or historical weather data.

WUCOLS – “WUCOLS” shall mean the Water Use Classification of Landscape Species guide published by the University of California Cooperative Extension and the California Department of Water Resources 2014, as may be periodically updated.

*Rule added by Ordinance No. 172 (8/15/2016); amended by Ordinance No. 177 (9/18/2017)*

## TECHNICAL ADVISORY COMMITTEE

### ITEM: DISCUSSION ITEM

#### 6. REMINDER OF TEMPORARY SUSPENSION OF WATER PERMIT REQUIREMENTS FOR OUTDOOR RESTAURANT SEATING DURING PANDEMIC

Meeting Date:	March 2, 2022	Budgeted:	N/A
From:	David J. Stoldt, General Manager	Program/ Line Item No.:	N/A N/A
Prepared By:	Stephanie Locke	Cost Estimate:	N/A

General Counsel Review: N/A

**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

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**SUMMARY:** MPWMD law (Rule 24) requires a Water Permit for outdoor restaurant seating when the seat count exceeds 50 percent of the interior seating limit. In May 2020, the Board adopted the first of two urgency ordinances to suspend this requirement during the pandemic. On April 19, 2021, the District adopted Urgency Ordinance No. 188 (**Exhibit 6-A**) continuing a suspension of enforcement of MPWMD's Water Permit requirements for outdoor seating at restaurants until April 19, 2022. With some restaurant operations returning to "normal," there has been a desire by merchants to continue their temporary outdoor dining areas on a permanent basis. MPWMD reminds the Jurisdictions of the Water Permit requirement when allowing permanent outdoor seating.

Adoption of the urgency ordinance was based on a need for outdoor operations to minimize crossflow of customers in enclosed environments during the pandemic. California's guidelines for food and beverage businesses included removing tables and chairs from indoor areas so that six feet of physical distance could be maintained for customers and employees. The guidelines also required discontinuing seating of customers where customers could not maintain six feet of distance from employee work and food and drink preparation areas. Jurisdictions have supported social distancing at restaurants, bars, tasting rooms and other Group II uses by shutting down parking spaces and sidewalks to allow businesses to operate outdoors. As more and more restaurants resume full occupancy, there is less need for an exemption to the permitting requirement.

**RECOMMENDATION:** This is a discussion item.

### EXHIBIT

**6-A** MPWMD Ordinance No. 188

## **EXHIBIT 6-A**



### **ORDINANCE NO. 188**

**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 CALIFORNIA'S BLUEPRINT FOR A SAFER ECONOMY**

### **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 the state'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.
4. On August 28, 2020, the Governor introduced the Blueprint for a Safer Economy, a statewide, stringent and slow plan for living with COVID-19. The plan imposes risk-based criteria on tightening and loosening COVID-19 allowable activities and expands the length of time between changes to assess how any movement affects the trajectory of the disease.
5. Outdoor areas for food and beverage service has been prioritized over inside seating to minimize exposure of customers in enclosed environments.
6. The Governor's guidelines include removing tables and chairs from indoor dining areas so

that six feet of physical distance can be maintained for customers and employees. If tables, chairs, booths, etc., cannot be moved, visual cues must be used to show that they are not available for use or Plexiglas or other types of impermeable physical barriers must be installed to minimize exposure between customers.

7. The guidelines also require discontinuing seating of customers where customers cannot maintain six feet of distance from employee work and food and drink preparation areas.
8. Jurisdictions have allowed outdoor seating to facilitate social distancing, including shutting down parking spaces and sidewalks to create open air dining areas.
9. California's Blueprint for a Safer Economy requires certain Users to conduct business outdoors and to limit the number of patrons indoors. As this action is temporary in nature and changing frequently, urgency is needed to address the current transitions from one tier to another and the potential that higher tiers could be reestablished.
10. 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 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.
11. 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.
12. 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.
13. 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.

14. This ordinance recognizes that certain uses (e.g. wine tasting rooms, bars, etc.) have had to move their operations to outdoor spaces, and the District has not enforced the Water Permit requirement for those relocated uses during the pandemic.
15. 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 2021 MPWMD Response to California’s Blueprint for a Safer Economy.

## **Section Two:        Purpose**

This ordinance suspends Rule 24-B-1-i for Restaurants that remove Interior Restaurant Seats and increase Exterior Restaurant Seats, suspends enforcement of expansion/relocation of Group II uses and wine tasting rooms that must operate outdoors as a response to the State of California’s Blueprint for a Safer Economy.

## **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 as required by California’s Blueprint for a Safer Economy.

## **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. For those restaurants that add outdoor seating pursuant to this provision, one Interior Restaurant Seat shall be removed for every two Exterior Restaurant Seats added. Restaurants with no seat count on file shall contact the District by email at [conserve@mpwmd.net](mailto:conserve@mpwmd.net) prior to exceeding the standard exterior seat allowance.

**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 20, 2021. Insofar as this Ordinance has been enacted as an urgency measure, it shall have no force or effect after April 19, 2022.

**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.

On motion of Director Paull, and second by Director Anderson, the foregoing ordinance is adopted upon this 19th day of April 2021, by the following vote:

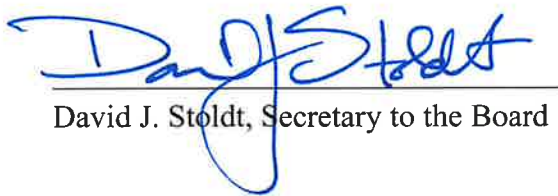
AYES: Director Edwards, Paull, Malek, Anderson, Riley, Roberson and Adams

NAYS: None

ABSENT: None

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the 19th day of April 2021.

Witness my hand and seal of the Board of Directors this 19<sup>th</sup> day of April, 2021.



David J. Stoldt, Secretary to the Board

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