MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

# NOTICE OF INTENT TO ADOPT INITIAL STUDY/NEGATIVE DECLARATION

1. **PROJECT TITLE**: Adoption of Ordinance No. 177: "2017 Rule Amendment Ordinance of the Monterey Peninsula Water Management District."

2. **DESCRIPTION AND LOCATION OF PROJECT**: Ordinance No. 177 (Attachment 2 of the Initial Study) is a "clean up" ordinance that clarifies MPWMD Rules and Regulations. Elements of the ordinance were discussed and supported by the Water Demand Committee in February 2017. The ordinance explains the procedure to remove unpermitted water fixtures; adds a diagram to demonstrate the split of the fire and domestic service on the customer side of the meter; permits non-residential Pebble Beach benefited properties after fulfilling bonds that limited use only to residential properties to qualify for tax exemption; clarifies that the capacity fee paid by the Cal-Am satellite systems is the same as the main system; updates the setting of the Cal-Am production limit to reflect the current process; updates the Rebate Program by deleting duplicative language, removing ice machines, adding a rebate for multi-family residential meter splits and adding a rebate for replacement of a high efficiency clothes washer after a minimum of eight years; relocates conservation messaging requirements; and increases the time allowed to retrofit after the sale of a property when the property is being remodeled from four to six.

   Ordinance No. 177 applies to Sites within the boundaries of the Monterey Peninsula Water Management District (MPWMD), including the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, portions of Monterey County (primarily Carmel Valley, Pebble Beach and the Carmel Highlands), and the Monterey Peninsula Airport District. Each of these Jurisdictions regulates land use within its individual boundaries and is responsible for CEQA review of individual projects that are proposed. The District does not regulate land use.

3. **REVIEW PERIOD**: The Review Period is August 28, 2017 through September 16, 2017.

4. **PUBLIC MEETINGS**: The second reading and consideration of adoption of the Ordinance and Negative Declaration is scheduled for public hearing on September 18, 2017. The second reading and consideration of adoption will be held at 7:00 PM at the MPWMD offices at 5 Harris Court, Bldg G (Ryan Ranch), Monterey, California.

5. **LOCATION OF DOCUMENTS**: The proposed Negative Declaration and Initial Study and copies of proposed Ordinance No. 177 are available for review at the Monterey Peninsula Water Management District office located at 5 Harris Court, Bldg. G, (Ryan Ranch) Monterey, CA 93940 and on the District's website at www.mpwmd.net under "Important Announcements -- CEQA Notices." **The staff contact is Stephanie Locke at (831) 658-5630 or S.Locke@mpwmd.net.**

6. **PROPOSED FINDING SUPPORTING NEGATIVE DECLARATION**: Based upon completion of an initial study, MPWMD finds that there is no substantial evidence that the project may have a significant effect on the environment.

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# CEQA Environmental Checklist
# MPWMD ORDINANCE NO. 177

## PROJECT DESCRIPTION AND BACKGROUND

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| Project Title: | Adoption of Ordinance No. 177: "2017 Rule Amendment Ordinance of the Monterey Peninsula Water Management District." |
| Lead agency name and address: | Monterey Peninsula Water Management District (MPWMD), P.O. Box 85, Monterey, CA 93942-0085 [Street Address: 5 Harris Court, Bldg. G, Monterey, CA 93940] |
| Contact person and phone number: | Stephanie Locke, 831/658-5630 or S.Locke@mpwmd.net |
| Project Location: | Monterey Peninsula Water Management District in the cities of Monterey, Sand City and Seaside (see **Attachment 1** map) |
| Project sponsor's name and address: | Monterey Peninsula Water Management District, P.O. Box 85, Monterey, CA 93942-0085 (Street address: 5 Harris Court, Bldg. G, Monterey, CA 93940) |
| General plan description: | Varies throughout MPWMD |
| Zoning: | Varies throughout MPWMD |
| Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation.) | Ordinance No. 177 (**Attachment 2**) Ordinance No. 177 is a "clean up" ordinance that clarifies MPWMD Rules and Regulations. Elements of the ordinance were discussed and supported by the Water Demand Committee in February 2017. The ordinance explains the procedure to remove unpermitted water fixtures; adds a diagram to demonstrate the split of the fire and domestic service on the customer side of the meter; permits non-residential Pebble Beach benefited properties after fulfilling bonds that limited use only to residential properties to qualify for tax exemption; clarifies that the capacity fee paid by the Cal-Am satellite systems is the same as the main system; updates the setting of the Cal-Am production limit to reflect the current process; updates the Rebate Program by deleting duplicative language, removing ice machines, adding a rebate for multi-family residential meter splits and adding a rebate for replacement of a high efficiency clothes washer after a minimum of eight years; relocates conservation messaging requirements; and increases the time allowed to retrofit after the sale of a property when the property is being remodeled from four to six. |
| Surrounding land uses and setting; briefly describe the project's surroundings: | Land uses within the MPWMD Cities of Monterey, Sand City, and Seaside are generally urban residential and commercial areas. Each of these jurisdictions regulates land uses within its boundaries. The MPWMD does not regulate land uses.<br><br>The Monterey Peninsula is dependent on local sources of water supply, which (directly or indirectly) are dependent on local rainfall and runoff. The primary sources of supply include surface and groundwater in the Carmel River basin, and groundwater in the Seaside Basin (**Attachment 3**). |

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| | Vegetation communities on the Monterey Peninsula include marine, estuarine, and riverine habitats; fresh emergent and saline emergent (coastal salt marsh) wetland communities; riparian communities, particularly along the Carmel River; a wetland community at the Carmel River lagoon; and upland vegetation communities such as coastal scrub, mixed chaparral, mixed hardwood forest, valley oak woodland, and annual grassland. These communities provide habitat for a diverse group of wildlife. The Carmel River supports various fish resources, including federally threatened steelhead fish and California red-legged frog. |
| Other public agencies whose approval is required (e.g. permits, financial approval, or participation agreements): | None |

## ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 3 for additional information.

| | | | | | |
|---|---|---|---|---|---|
| ☐ | Aesthetics | ☐ | Agriculture and Forestry | ☐ | Air Quality |
| ☐ | Biological Resources | ☐ | Cultural Resources | ☐ | Geology/Soils |
| ☐ | Greenhouse Gas Emissions | ☐ | Hazards and Hazardous Materials | ☐ | Hydrology/Water Quality |
| ☐ | Land Use/Planning | ☐ | Mineral Resources | ☐ | Noise |
| ☐ | Population/Housing | ☐ | Public Services | ☐ | Recreation |
| ☐ | Transportation/Traffic | ☐ | Utilities/Service Systems | ☐ | Mandatory Findings of Significance |

## DETERMINATION:

On the basis of this initial evaluation:

| | |
|---|---|
| ☒ | I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. |
| ☐ | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. |
| ☐ | I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. |
| ☐ | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. |
| ☐ | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required |

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| **Signature:** | **Date:** 8-25-17 |
| | |
| **Printed Name:**<br>**David J. Stoldt, General Manager** | |

## CEQA Environmental Checklist

This checklist identifies physical, biological, social and economic factors that might be affected by the proposed project. In many cases, background studies performed in connection with the projects indicate no impacts. A NO IMPACT answer in the last column reflects this determination. Where there is a need for clarifying discussion, the discussion is included either following the applicable section of the checklist or is within the body of the environmental document itself. The words "significant" and "significance" used throughout the following checklist are related to CEQA, not NEPA, impacts. The questions in this form are intended to encourage the thoughtful assessment of impacts and do not represent thresholds of significance.

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **I. AESTHETICS**: Would the project: | | | | |
| a) Have a substantial adverse effect on a scenic vista | ☐ | ☐ | ☐ | ☒ |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway | ☐ | ☐ | ☐ | ☒ |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | ☐ | ☐ | ☐ | ☒ |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ☐ | ☒ |
| **II. AGRICULTURE AND FOREST RESOURCES**: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project: | | | | |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | ☐ | ☐ | ☐ | ☒ |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| **III. AIR QUALITY**: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | ☐ | ☐ | ☐ | ☒ |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | ☐ | ☐ | ☐ | ☒ |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | ☐ | ☐ | ☐ | ☒ |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | ☐ | ☐ | ☐ | ☒ |
| d) Expose sensitive receptors to substantial pollutant concentrations? | ☐ | ☐ | ☐ | ☒ |
| e) Create objectionable odors affecting a substantial number of people? | ☐ | ☐ | ☐ | ☒ |
| **IV. BIOLOGICAL RESOURCES**: Would the project: | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☐ | ☒ |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | ☐ | ☐ | ☐ | ☒ |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | ☐ | ☐ | ☐ | ☒ |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ☐ | ☐ | ☒ |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☐ | ☒ |
| **V. CULTURAL RESOURCES**: Would the project: | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? | ☐ | ☐ | ☐ | ☒ |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | ☐ | ☐ | ☐ | ☒ |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ☐ | ☐ | ☒ |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | ☐ | ☐ | ☐ | ☒ |
| **VI. GEOLOGY AND SOILS**: Would the project: | | | | |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | ☐ | ☐ | ☐ | ☒ |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42? | ☐ | ☐ | ☐ | ☒ |
| ii) Strong seismic ground shaking? | ☐ | ☐ | ☐ | ☒ |
| iii) Seismic-related ground failure, including liquefaction? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| iv) Landslides? | ☐ | ☐ | ☐ | ☒ |
| b) Result in substantial soil erosion or the loss of topsoil? | ☐ | ☐ | ☐ | ☒ |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | ☐ | ☐ | ☐ | ☒ |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | ☐ | ☐ | ☐ | ☒ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | ☐ | ☐ | ☐ | ☒ |
| **VII. GREENHOUSE GAS EMISSIONS**: Would the project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | ☐ | ☐ | ☐ | ☒ |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | ☐ | ☐ | ☐ | ☒ |
| **VIII. HAZARDS AND HAZARDOUS MATERIALS**: Would the project: | | | | |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | ☐ | ☐ | ☐ | ☒ |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | ☐ | ☐ | ☐ | ☒ |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | ☐ | ☐ | ☐ | ☒ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☐ | ☒ |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☐ | ☒ |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ☐ | ☒ |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | ☐ | ☐ | ☐ | ☒ |

**IX. HYDROLOGY AND WATER QUALITY**: Would the project:

| | | | | |
|---|---|---|---|---|
| a) Violate any water quality standards or waste discharge requirements? | ☐ | ☐ | ☐ | ☒ |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | ☐ | ☐ | ☐ | ☒ |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | ☐ | ☐ | ☐ | ☒ |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | ☐ | ☐ | ☐ | ☒ |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | ☐ | ☐ | ☐ | ☒ |
| f) Otherwise substantially degrade water quality? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | ☐ | ☐ | ☐ | ☒ |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | ☐ | ☐ | ☐ | ☒ |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | ☐ | ☐ | ☐ | ☒ |
| j) Inundation by seiche, tsunami, or mudflow | ☐ | ☐ | ☐ | ☒ |

**X. LAND USE AND PLANNING**: Would the project:

| | | | | |
|---|---|---|---|---|
| a) Physically divide an established community? | ☐ | ☐ | ☐ | ☒ |
| b)Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ☐ | ☒ |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | ☐ | ☐ | ☐ | ☒ |

**XI. MINERAL RESOURCES**: Would the project:

| | | | | |
|---|---|---|---|---|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | ☐ | ☐ | ☐ | ☒ |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | ☐ | ☐ | ☐ | ☒ |

**XII. NOISE**: Would the project result in:

| | | | | |
|---|---|---|---|---|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | ☐ | ☐ | ☐ | ☒ |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | ☐ | ☐ | ☐ | ☒ |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | ☐ | ☐ | ☐ | ☒ |
| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |

| | | | | |
|---|---|---|---|---|
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | ☐ | ☐ | ☐ | ☒ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ☒ |
| ) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ☒ |

**XIII. POPULATION AND HOUSING**: Would the project:

| | | | | |
|---|---|---|---|---|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | ☐ | ☐ | ☐ | ☒ |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ☒ |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ☒ |

**XIV. PUBLIC SERVICES**:

| | | | | |
|---|---|---|---|---|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | ☐ | ☐ | ☐ | ☒ |
| Fire protection? | ☐ | ☐ | ☐ | ☒ |
| Police protection? | ☐ | ☐ | ☐ | ☒ |
| Schools? | ☐ | ☐ | ☐ | ☒ |
| Parks? | ☐ | ☐ | ☐ | ☒ |
| Other public facilities? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **XV. RECREATION**: | | | | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | ☐ | ☐ | ☐ | ☒ |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | ☐ | ☐ | ☐ | ☒ |
| **XVI. TRANSPORTATION/TRAFFIC**: Would the project: | | | | |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | ☐ | ☐ | ☐ | ☒ |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | ☐ | ☐ | ☐ | ☒ |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | ☐ | ☐ | ☐ | ☒ |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☐ | ☐ | ☒ |
| e) Result in inadequate emergency access? | ☐ | ☐ | ☐ | ☒ |
| f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | ☐ | ☐ | ☐ | ☒ |
| **XVII. UTILITIES AND SERVICE SYSTEMS**: Would the project: | | | | |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | ☐ | ☐ | ☐ | ☒ |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ☐ | ☐ | ☒ |

| | Potentially Significant Impact | Less Than Significant with Mitigation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ☐ | ☐ | ☒ |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | ☐ | ☐ | ☐ | ☒ |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☐ | ☐ | ☐ | ☒ |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | ☐ | ☐ | ☐ | ☒ |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | ☐ | ☐ | ☐ | ☒ |
| **XVIII. MANDATORY FINDINGS OF SIGNIFICANCE** | | | | |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | ☐ | ☐ | ☐ | ☒ |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? | ☐ | ☐ | ☐ | ☒ |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | ☐ | ☐ | ☐ | ☒ |

## DISCUSSION OF CHECKLIST ITEMS:

For all categories, "No Impact" was checked. Adoption of Ordinance No. 177 has no measurable physical impact on the environment, as the ordinance primarily clarifies and amends definitions and procedural matters.

Conclusion

Based on this Initial Study, the MPWMD believes that there is an absence of substantial evidence from which a fair argument can be made that adoption of Ordinance No. 177 has measurable and meaningful actual or potential adverse environmental consequences. MPWMD believes that adoption of Ordinance No. 177 would have less than significant environmental impacts. MPWMD is aware that CEQA requires preparation of a negative declaration if there is no substantial evidence that the project may cause a significant effect on the environment (CEQA Guidelines §15063(b)(2).) For these reasons, MPWMD intends to adopt a negative declaration regarding adoption of Ordinance No. 177.

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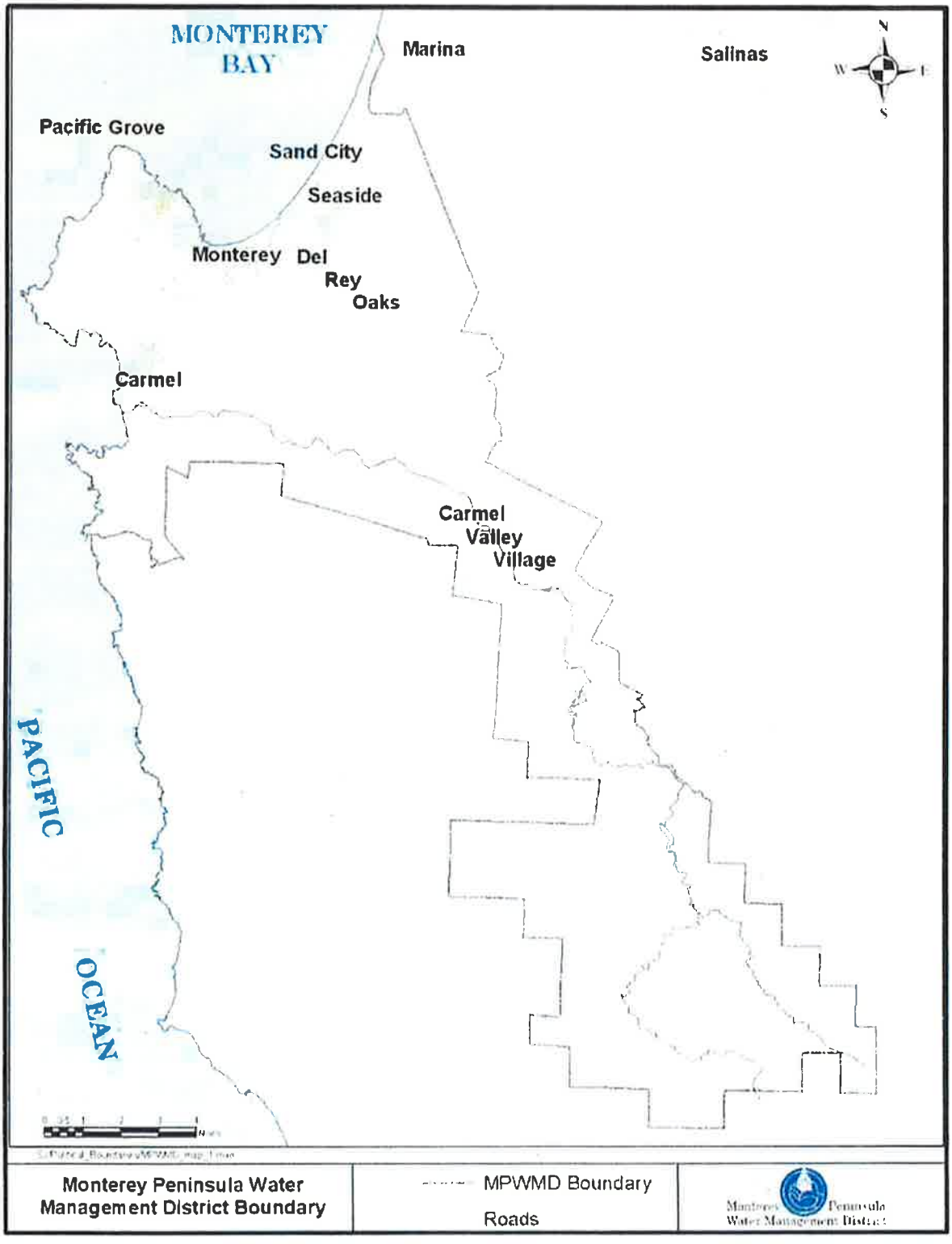

MONTEREY BAY
Marina
Salinas
Pacific Grove
Sand City
Seaside
Monterey
Del Rey Oaks
Carmel
Carmel Valley Village
PACIFIC OCEAN
Monterey Peninsula Water Management District Boundary
MPWMD Boundary
Roads
Monterey Peninsula Water Management District

# DRAFT
# ORDINANCE NO. 177

## AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AMENDING RULES 11, 23, 23.5, 24, 25.5, 32, 141, 142, 143, 144, AND 154

## FINDINGS

1. The Monterey Peninsula Water Management District was created to address ground and surface water resources in the Monterey Peninsula area, which the Legislature found required integrated management, and was endowed with the powers set forth in the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, found at West's Water Code, Appendix, Section 118-1, et seq.).

2. The Monterey Peninsula Water Management District has adopted and regularly implements water conservation and efficiency measures which, inter alia, set standards for the installation of plumbing fixtures in New Construction, and requires retrofit or replacement of existing plumbing fixtures upon Change of Ownership, Change of Use, and Expansion of Use, and for existing Non-Residential uses. The Monterey Peninsula Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.

3. The Monterey Peninsula Water Management District has found and determined that it is in the best interests of the Monterey Peninsula Water Management District and its inhabitants to define, implement and enforce water efficient plumbing standards and requirements for the conservation of Potable water supplies. Retrofit or replacement of existing plumbing fixtures lessens consumption of the limited water resources available on the Monterey Peninsula. Installation of water efficient plumbing fixtures reduces the burden of new, expanded or modified uses on the water resources.

4. This ordinance amends Rule 23-A-1 to explain the procedure for removal of an unpermitted water fixture.

5. This ordinance clarifies Rule 23-B and adds a diagram showing how to plumb the fire and

domestic service lines after the Water Meter. This methodology was agreed to between the local fire departments and California American Water in 2010.

6. Rule 23.5 is amended to remove/amend outdated language and to update the Rule to follow current agreements.

7. Rule 24 is amended to include the entire California American Water Service Area as all areas equally benefit from planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District.

8. Rule 25.5 is amended to clarify the date a Water Use Credit is established and to clarify that only lawfully installed water fixtures qualify for a Water Use Credit.

9. Rule 32 is amended to reflect current Production Limits for the California American Water system.

10. Rule 141 is amended to delete duplicative language, to reduce Rebates for toilets, to delete ice machines as efficient machines are a requirement, and to add a Rebate for Multi-Family Residential Meter Splits to encourage individual accountability for water use. This Rule is also amended to allow a second or subsequent Rebate for maintaining a High Efficiency Clothes Washer after the lifetime of the previously-Rebated machine in accordance with the recommendation of Consumer Reports.

11. This ordinance amends Rule 144 to allow an extension of six months after purchase or change in use to meet the requirements of Rule 142, and allows six month extensions until completion of the Remodel.

12. This ordinance deletes Rule 154 and moves the conservation message requirements to Rules 142 and 143.

13. This ordinance is processed under a California Environmental Quality Act (CEQA) Negative Declaration. An Initial Study and Notice of Intent to Adopt a Negative Declaration was prepared, circulated and filed with the Monterey County Clerk.

**NOW THEREFORE** be it ordained as follows:

## ORDINANCE

**Section One:** **Short Title**

This ordinance shall be known as the 2017 Rule Amendment Ordinance of the Monterey Peninsula Water Management District.

**Section Two:** **Purpose**

The Monterey Peninsula Water Management District enacts this ordinance to amend and clarify certain actions necessary to process, issue, and enforce requirements related to Water Permits, Water Use Permits, water efficiency requirements and Rebates. This ordinance also updates the calculation of capacity fees to include the full California American Water system and adds a Rebate for Meter Splits at Multi-Family Residential Sites.

**Section Three:** **Amendment of Rule 11, Definitions**

A. The following definitions in Rule 11 shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strikethrough~~). Additions and amendments to Rule 11 shall require a global review of the Rules and Regulations to capitalize or amend defined terms. Numbering is provided for reference only. Terms defined in both Rule 11 and in Rule 142, Water Efficient Landscape Requirements, shall be amended in both Rules.

1. EXPANSION OF USE - "Expansion of Use" shall mean the addition of any ***Residential*** water fixture and/or increase to existing ***Non-Residential*** floor area.

2. 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 ~~5500.1,~~ 5615, ~~5641~~, 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).

3. 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~~Sections 5500.1, 5615, 5641, 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~~). "Landscape Design Plan" shall also be known as a "Planting Plan."

4. METER SPLIT - "Meter Split" shall mean the ***installation of MPWMD-***authorized ~~installation of individual Water Measuring Devices~~ ***Water Meters maintained by the Water Distribution System Operator*** ~~for more than one~~ to ***separately meter multiple*** ~~Water~~ User***s*** on a Site that ~~is, at the time of application~~ ***was*** supplied by ~~one~~ ***a single*** existing Connection.

5. MIXED USE – "Mixed Use" shall mean water used for domestic or other uses from any Water Distribution System or private Well where one ***W***~~w~~ater ***M***~~m~~eter or Connection supplies both Residential and Non-Residential uses, often within the same building. ***Mixed Use shall also refer to buildings with both Residential and Non-Residential Users where there is one or more Connections.***

6. ~~ON-SITE "On-Site" shall mean located on the same Site~~.

7. ~~PERMIT "Permit" shall mean any written approval by the staff or Board of the Monterey Peninsula Water Management District, based on an application, request, or appeal. This term shall include, but shall not be limited to, approvals referenced in Regulation II, "Permits", Regulation VI, "Fees", Regulation VII, "Appeals", and/or Regulation IX, "Variances".~~

8. SITE - "Site" shall mean any unit of land which qualifies as a Parcel under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other Parcel (or are separated only by a road or easement), and (2) which have identical owners~~, and (3) which have an identical present use~~. The term "Site" shall be given the same meaning as the term "Parcel".

9. SINGLE-PARCEL CONNECTION SYSTEM – "Single-Parcel Connection System" shall mean a Water Distribution System providing water to one or more ~~buildings or structures or providing water for irrigation purposes~~ ***uses*** on one individual Legal Parcel. The Well(s) or other Water Gathering Facility must be located on, overlying and serving the same individual Legal Parcel. If the single Parcel is subdivided into two or more separate Parcels, the Water Distribution System is now considered to be a Multiple-Parcel Connection System, regardless of Parcel ownership, unless the newly formed Legal Parcels each are served by a separate Well that has received a well construction permit from the Monterey County Health Department, and has been registered, metered, inspected and approved by the District within 180 days of the date of the final approval of the subdivision.

10. ~~SUB~~***NON***-POTABLE WATER - "~~Sub~~***Non***-p***P***otable Water" shall mean water which is not fit for human consumption ~~without treatment and shall include Reclaimed Water as that term is used in the Water Reclamation Law, and particularly in Section 13550 of the Water Code~~.

11. SYSTEM LIMITS – "System Limits" means the System (***P***production ***Limit***) and Expansion (Connection) Capacity of a Water Distribution System.

12. ***WATER DISTRIBUTION SYSTEM PERMIT – "Water Distribution System Permit" ("WDS Permit") shall mean an official document issued by MPWMD that authorizes a Water Distribution System from one or more Sources of Supply to serve specific Parcels.***

B. The Rules and Regulations of the District shall be searched and terms replaced as applicable due to changes resulting from amendments to Rule 11 adopted in this ordinance.

C. The word permit should be capitalized throughout the Rules and Regulations when it refers to a specific type of permit that is defined in the Rules and Regulations.

**Section Four:** **Amendment to Rule 23-A-1 – Action on Application for a Water Permit to Connect to or Modify a Connection to an Existing Water Distribution System**

The following text shall be added to Rule 23-A-1, as shown in bold italics (***bold italics***), to clarify the process for removal of water fixtures added without a permit:

*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.***

**Section Five:** **Amendments to Rule 23-B, Mandatory Conditions, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System**

Amendments are Rule 23-B-2 are shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~):

2. Construction of a New Structure.

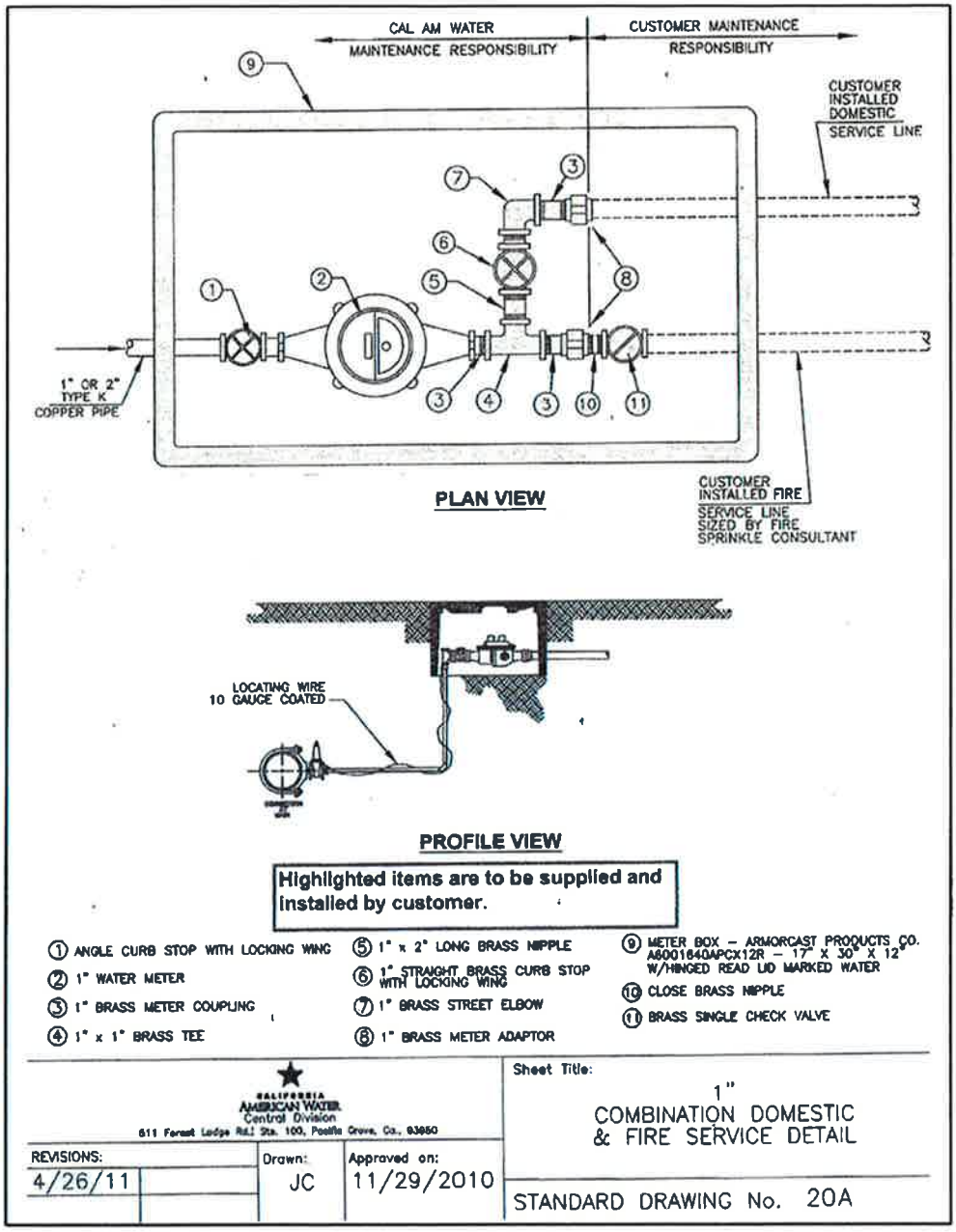
   a. ~~All new water use permitted by the District shall install a separate water meter to each User.~~ ***Water Meters maintained by the Water Distribution System Operator shall be installed for each Residential and Non-Residential water User except as allowed in Rule 23-A-1-i-(3), (4), and (5).***

   b. 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.

   c. All New Structures receiving a Water Permit after January 1, 2009, shall have separate water supply lines that tee off 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 configurations shall facilitate installation of a Flow Restrictor in the domestic service without interfering with the fire suppression service.

*Figure 23-1*


CAL AM WATER
MAINTENANCE RESPONSIBILITY
CUSTOMER MAINTENANCE
RESPONSIBILITY
CUSTOMER INSTALLED DOMESTIC SERVICE LINE
1" OR 2" TYPE K COPPER PIPE
CUSTOMER INSTALLED FIRE SERVICE LINE SIZED BY FIRE SPRINKLE CONSULTANT
PLAN VIEW
LOCATING WIRE 10 GAUGE COATED
PROFILE VIEW
Highlighted items are to be supplied and installed by customer.
① ANGLE CURB STOP WITH LOCKING WING
② 1" WATER METER
③ 1" BRASS METER COUPLING
④ 1" x 1" BRASS TEE
⑤ 1" x 2" LONG BRASS NIPPLE
⑥ 1" STRAIGHT BRASS CURB STOP WITH LOCKING WING
⑦ 1" BRASS STREET ELBOW
⑧ 1" BRASS METER ADAPTOR
⑨ METER BOX – ARMORCAST PRODUCTS CO. A6001840APCX12R – 17" X 30" X 12" W/HINGED READ LID MARKED WATER
⑩ CLOSE BRASS NIPPLE
⑪ BRASS SINGLE CHECK VALVE
CALIFORNIA AMERICAN WATER
Central Division
811 Forest Lodge Rd. Ste. 100, Pacific Grove, Ca., 93950
Sheet Title:
1" COMBINATION DOMESTIC & FIRE SERVICE DETAIL
REVISIONS: 4/26/11
Drawn: JC
Approved on: 11/29/2010
STANDARD DRAWING No. 20A

**Section Six:** **Amendments to Rule 23.5, Permits for Water from the Cal-Am Water Distribution System Dedicated for Use in Connection with the Plan to Finance the Recycled Water Project**

Rule 23.5 shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

~~**RULE 23.5 – PERMITS FOR WATER FROM THE CAL-AM WATER DISTRIBUTION SYSTEM DEDICATED FOR USE IN CONNECTION WITH THE PLAN TO FINANCE THE RECYCLED WATER PROJECT**~~

**RULE 23.5 - Pebble Beach Company, J. Lohr Properties, Inc., and the Hester Hyde Griffin Trust Entitlements**

**A. ISSUANCE OF WATER USE PERMITS**

~~The Board having selected the Fiscal Sponsor/Sponsors pursuant to Part II of Ordinance No. 39 and based upon the irrevocable commitment by those Sponsors to underwrite, be responsible for, assure and guarantee payment of the Financial Commitment (Capital Costs and Net Operating Deficiencies and Ancillary Project Costs of the Original Project recorded by the agreements required by Part VII of Ordinance No. 39),~~ MPWMD has granted ~~the~~ Water Entitlement***s*** ~~and the General Manager has issued Water Use Permits~~ to Pebble Beach Company ("PBC"), J. Lohr Properties, Inc. ("Lohr") ***for the subdivision known as Macomber Estates***, and the Hester Hyde Griffin Trust ("Griffin") authorizing the Expansion and ~~E~~extension of the Cal-Am Water Distribution System to provide water service and Connections for the benefit of the properties identified in the Fiscal Sponsorship Agreement (such properties being the "Benefited Properties" described in Exhibit A thereto as amended[1]). By virtue of the Water Entitlement, each Water Use Permit has granted a vested property interest upon one or more Benefited Properties for the use and benefit of a specified quantity of Potable water per year (in Acre-Feet) produced by the Water Distribution System owned and operated by the California American Water Company ("Cal-Am").

Water Use Permits shall be subject only to the following limitations:

[1] ***After July 1, 2022, Benefitted Properties not owned by Pebble Beach Company may include Residential and Non-Residential Sites.***

1. the Permit shall not limit the power of the Monterey Peninsula Water Management District ("MPWMD") to curtail water use in the event of any emergency caused by drought, or other threatened or existing water shortage, as defined in Section 332 of the Monterey Peninsula Water Management Act, including without limitation the power of MPWMD to terminate water service as a consequence of a violation of water use restrictions;

2. the Permit shall not relieve or reduce any obligation of the recipient of water to pay customary fees, Capacity Fees, User fees, surcharges, taxes, utility taxes, and/or any other customary monetary obligation which may be imposed by the California Public Utilities Commission, Cal-Am, MPWMD, or other Public Participants upon Water Users of the same class within the Cal-Am Service Area, including but not limited to fees and charges due and payable to MPWMD by reason of Rule 24 of MPWMD's Rules and Regulation nor shall such Permit limit the authority of Cal-Am or MPWMD to terminate water use for non-payment of such fees and charges;

3. the Permit shall enable present use of the Water Entitlement by PBC only upon its continuing financial assurance or guarantee relating to the payment of Net Operating Deficiencies for the Project; and

4. notwithstanding any other provision of this Rule:

    a. the Water Entitlement allocated to the Benefited Properties as a whole shall not exceed 380 AF,

    b. the water usage under the Water Entitlement on any Benefited Property shall not exceed the amount of the Water Entitlement allocated to such Benefited Property, measured in accordance with the Water Use Factors specified at the time of connection in the MPWMD Rules, as amended from time to time, and

    c. for purposes of collecting Capacity Fees and fees, the projected water usage of the Benefited Properties shall be calculated by MPWMD in the manner set forth in Rule 24.

5. Further, notwithstanding any other provision of this Rule, once a new water Connection is established pursuant to a Water Use Permit and use of all or a portion of a Water Entitlement,

   a. no User of water through such Connection shall be entitled to preferential access to water over any other Water User of the Cal-Am Water Distribution System; and

   b. the fixtures on the Benefited Property served by that Connection shall be subject to verification of Water Use Capacity in the manner specified in the MPWMD Rules, as amended from time to time; and

   c. the use of water on the Benefited Property served by such Connection shall be accounted for by MPWMD in the manner specified at the time of Connection in the MPWMD Rules, as amended from time to time; and

   d. the restrictions of use set forth above shall be enforced as determined by MPWMD to be necessary.

6. The Revocation and termination of any Water Use Permit shall not diminish or otherwise adversely affect present actual use of water by reason of a prior Expansion or Extension of the Cal-Am Water Distribution System through any Connection previously made pursuant to such Water Use Permit, except that actual use of water may be reduced pursuant to the provisions of subparagraphs A-1 through A-5.

7. Permits issued pursuant to this Rule shall represent a vested property interest upon issuance and shall not be subject to Revocation or cancellation except as expressly set forth in subparagraph D below.

8. The Water Entitlement granted by each Water Use Permit shall not be subject to reallocation pursuant to MPWMD Rule 30, nor shall it be terminated or diminished by reason of any water emergency, water moratorium or other curtailment on the setting of meters for the Cal-Am Water Distribution System, nor shall it otherwise be subject to diminishment or Revocation, except in the event that a Water Use Permit is Revoked or cancelled or as otherwise provided by subparagraph D below.

## B. WATER USE PERMIT PROVISIONS

Each Water Use Permit issued by the General Manager shall identify, with respect to the Benefited Property:

1. the nature (Industrial/Commercial/Residential) and location of the water use to be applied to each Benefited Property, and the consistency of such water use with existing land use and zoning plans;

2. the number and nature of Connections projected for each Benefited Property; and

3. the amount of the Water Entitlement dedicated to, conveyed with, or separately conveyed to, the Benefited Property.

## C. AMENDMENT OF WATER USE PERMITS

1. The Owner of any Benefited Property, shall, upon request, be entitled to an amendment to any Water Use Permit to reduce, or increase (up to the amount of the Water Entitlement specified in the Water Use Permit pursuant to subparagraph B-3 of this Rule), or change the number and type of Connections and water use with respect to that Benefited Property. In addition, the Owner of any Benefited Property not described in subparagraph C-2 or C-3 below shall, upon request, be entitled to an amendment to any Water Use Permit to reduce, or increase, or change the number and type of Connections and water use with respect to any Benefited Property owned by such Owner, provided that in no event shall the aggregate amount of annual water usage for the Benefited Properties owned by that Owner exceed the aggregate Water Entitlement allocated to the Benefited Properties of that Owner, and provided further that the reallocation of Connections shall be allowed only among those locations identified ~~in Exhibit A to the Fiscal Sponsorship Agreement (as such Exhibit has been amended after execution to expand the~~ ***as*** Benefited Properties~~)~~.

2. As an integral part of the conveyance of title to one or more Benefited Properties, Water Use Permits shall be conveyed and assigned to the

successors-in-interest to the Benefited Properties to which the pertinent portion of the Water Entitlement is dedicated.

3. Owners who have received a Water Use Permit from MPWMD for the portion of the Water Entitlement acquired by separate sale and conveyance from PBC pursuant to Section Three of Ordinance No. 109 shall be entitled to use up to the quantity of the Water Entitlement evidenced therein ~~only after the writings comprising the Supplemental Financial Commitment (as defined herein) have been received by MPWMD and then~~ only on the Benefited Property to which it applies. Such Owners shall not have the right to further sell or convey the Water Use Permit or the corresponding portion of the Water Entitlement ~~for any use other than Residential use or on any other Benefited Property~~.

## D. REVOCATION, TERMINATION, OR MODIFICATION OF WATER USE PERMITS

Each Water Use Permit held by the Fiscal Sponsor shall provide that it shall be Revoked and terminated in the event that the Fiscal Sponsor shall default in any material manner upon its obligation, assurance and guarantee of the Financial Commitment for the Project, provided that nothing herein shall preclude PBC or any other subsequent Fiscal Sponsor from disputing in good faith any claim of default made by MPWMD nor shall MPWMD terminate or Revoke any Water Use Permit unless PBC or any subsequent Fiscal Sponsor shall have been given notice and a reasonable opportunity to cure any such default so long as such opportunity to cure shall not result in any payment default to the holders of the Certificate of Participation.

All Water Use Permits issued to evidence the Water Entitlement conveyed by PBC pursuant to Subsections C and D of Section Three of Ordinance No. 109 shall not be Revoked (as defined in Rule 11) or Terminated as defined herein with respect to the entire Water Entitlement so conveyed except as set forth in the following sentences.

Notwithstanding the preceding sentences of this Subsection D, the actual use on each of the properties to which a portion of the Water Entitlement is dedicated (after conveyance by PBC pursuant to Subsections C and D of Section Three of Ordinance No. 109) shall at all times remain subject to the limitations and

restrictions referenced in Subsections A through C of this Rule 23.5, which shall be enforced in the manner determined by MPWMD to be necessary. In order to facilitate enforcement of this limitation, MPWMD shall account for the use of water on the Benefited Property in the manner specified at the time of connection in the MPWMD Rules, as amended from time to time.

Moreover, each Water Use Permit which on or after January 1, 2075, embodies an annual Water Entitlement in excess of requirements for planned land uses on a Benefited Property or which purports to authorize usage in excess of the constitutional limitation to reasonable and beneficial use shall be subject to modification, Revocation, or termination in the sole discretion of MPWMD, such that the water usage authorized thereby shall not exceed such requirements and limitations.

Prior to any modification, termination or Revocation pursuant to this subparagraph D, the holder of the Water Use Permit shall be entitled to notice and a hearing, and any termination, Revocation, or modification shall be subject to appeal to the Board pursuant to Rule 70 of the MPWMD Rules and Regulations.

The Revocation, termination, or modification of any Water Use Permit shall not diminish or otherwise adversely affect present actual use of water by reason of prior Expansion or Extension of the Cal-Am Water Distribution System through any Connection previously made pursuant to such Water Use Permit, provided that each Water Use Permit holder shall be subject to such laws, ordinances, and regulations as are generally applicable to all similarly situated Users ~~(Residential Users within the Cal-Am Water Distribution System with lots classified by MPWMD as the same size)~~ actually using water from the Cal-Am Water Distribution System, and nothing herein is intended to or shall affect the ability to curtail or eliminate the actual use of water through any Connection previously made pursuant to a Water Use Permit to the extent such curtailment or elimination is authorized by such generally applicable laws, ordinances, or regulations applied in a non-discriminatory fashion to all similarly situated Users in the Cal-Am Water Distribution System ~~(Residential Users with lots classified by MPWMD as the same size)~~.

For example, Persons using water from the Cal-Am Water Distribution System are required to reduce their water usage in ***compliance with MPWMD Regulation XV*** ~~the various stages in MPWMD's Expanded Water Conservation and Standby~~

~~Rationing Plan~~, and may be penalized or their water service may be terminated for failing to reduce water usage as required. Similarly, such Persons must pay the rates and charges imposed for such water service, or their water service may be terminated.

## E. CAL-AM SYSTEM EXPANSION/EXTENSION PURSUANT TO WATER USE PERMITS

Each Water Use Permit shall entitle the Owner of a Benefited Property to Potable water service to be provided by the Cal-Am Water Distribution System for such Benefited Properties, including the installation of water meters and mains as necessary notwithstanding the existence of a moratorium or a temporary delay on new Connections, upon payment of the fees required by subparagraph E-2 and ***a complete application for a Water Permit as described in Rule 21-B.*** ~~presentation to MPWMD by the Owner of the applicable Benefited Property of the following:~~

~~1. a. A statement by the Owner setting forth the annual Capacity of water that the Owner intends to use through such Expansion/Extension of the Cal-Am Water Distribution System, and the nature of the uses to which such water is intended to be applied; and~~

~~b. a valid municipal or county building permit which will allow construction upon the Benefited Property; and~~

~~c. a complete set of architectural contract drawings; or~~

~~d. other documentation sufficient for MPWMD to determine quantity and the Capacity for annual water use of the Benefited Property in the manner set forth at the time of connection in the MPWMD Rules, as amended from time to time, and the number and type of each requested Connection.~~

~~2~~*1*. The payment of any customary fees and Capacity Fees required by both Cal-Am and MPWMD of Water Users within the Cal-Am Service Area, calculated upon the basis of the annual water usage Capacity for the Benefited Property determined as set forth in ~~the preceding subsection E-1-d, including but not limited to fees and charges due by reason of~~ Rule 24

of MPWMD's Rules and Regulations.

2. Upon the filing of the information and payment of the fees required above, the General Manager shall issue a ***Water*** Permit pursuant to those provisions of Rule 23 authorizing ~~the Expansion/Extension of~~ ***a Connection to or modification of a water use on the California American Water Water Distribution System***~~, which *Water* Permit shall indicate the location, maximum usage measured as *Water Use* Capacity, and nature of each Connection requiring a present Expansion/Extension of the Cal-Am Water Distribution System~~. Customary fees and Capacity Fees shall be calculated based upon the Water Use Capacity for proposed or planned development upon Benefited Properties and calculated in the manner described in Rule 24. The water use represented by such ~~Expansions/Extensions~~ ***Connection to or modification*** of the Cal-Am Water Distribution System, shall not exceed the Water Entitlement evidenced by such Water Use Permit. In the event that an Owner of any Benefited Property requests an ~~Expansion/Extension~~ ***Connection to or modification*** of the Cal-Am Water Distribution System with respect to less than all of the Water Entitlement evidenced by such Water Use Permit, the General Manager shall make a record of the respective amounts deducted from and remaining under the pertinent Water Entitlement (as evidenced in the Water Use Permit).

3. The Owner of any Benefited Property to which the Owner has previously applied a portion of the Water Entitlement through prior ~~Expansions/Extensions~~ ***Connection to or modification*** of the Cal-Am Water Distribution System shall be entitled to increase the annual water use on such Benefited Property upon presentation of the information and payment of the fees set forth in this subparagraph E, provided that such increase does not cause the water use on the Benefited Property (or, in the case of PBC, PBC's Benefited Properties) to exceed the Water Entitlement owned by such Owner. Cal-Am shall be authorized to execute a contract with the Fiscal Sponsor to enable the provision of water service pursuant to subsections C and D of Section Three of Ordinance No. 109 consistent with the Water Entitlement evidenced by the Water Use Permit issued under this provision. Such agreement with Cal-Am shall at the Fiscal Sponsor's option be a condition precedent to the financing pursuant to Section Three of Ordinance No. 109 that is to pay for the Capital Costs of the Project Expansion. The actions required to be taken by the General Manager

pursuant to the foregoing provisions of this paragraph E shall be ministerial, non-discretionary acts which shall not be affected by any water moratorium, water emergency, Allocation decision or other curtailment on the setting of new water meters for the Cal-Am Water Distribution System and shall be enforceable by mandamus.

4. Nothing in the foregoing is intended to or shall affect the ability of MPWMD to curtail or eliminate the actual use of water through any Connection previously made pursuant to a Water Use Permit to the extent that such curtailment or elimination is authorized by other laws, ordinances, or regulations as are generally applicable to all similarly situated users ~~(Residential Users within the Cal-Am Water Distribution System with lots classified by MPWMD as the same size)~~ actually using water from the Cal-Am Water Distribution System, nor is it intended to provide or imply that any Water Use Permit holder shall not be subject to such generally applicable laws, ordinances, and regulations. For example, Persons using water from the Cal-Am Water Distribution System are required to reduce their water usage in the various stages in MPWMD's ~~Expanded Water Conservation and Standby Rationing Plan~~***Regulation XV, the 2016 Monterey Peninsula Water Conservation and Rationing Plan***, and may be penalized or their water service may be terminated for failing to reduce water usage as required. Similarly, such Persons must pay the rates and charges imposed for such water service, or their water service may be terminated.

## F. PROCEDURE IN CASE OF INTERRUPTION OF RECYCLED WATER DELIVERIES

1. The provisions of this subparagraph F shall be applicable only after the Project Expansion is Completed. After the Project Expansion is Completed, if there is an Interruption in Recycled Water deliveries to any Recycled Water Irrigation Area, the temporary use of Potable water for irrigating each such Recycled Water Irrigation Area is authorized in the manner described in this Subsection F. Following written notice to MPWMD from an Owner of the affected area, CAWD, PBCSD and/or Cal-Am, CAWD, PBCSD and/or Cal-Am are authorized to turn on the Connection by which Potable water enters the distribution system serving the Recycled Water Irrigation Areas. Reports of the quantities of Potable water introduced into the Project

through this Connection on a daily basis shall be submitted to MPWMD each week throughout the Interruption.

2. Under normal circumstances, Potable water shall not be used for irrigation of a Recycled Water Irrigation Area for any longer than the period of time reasonably required to promptly and diligently complete repair or replacement or other activities necessary to restore Recycled Water service, provided that Potable water shall be made available for irrigating tees and greens during an Interruption without any limitation on the duration.

3. If Potable water has been used for irrigation of a Recycled Water Irrigation Area for 15 days , MPWMD may thereafter give notice of, and hold, a hearing (a) if it appears that the repair or replacement or other activities necessary to restore Recycled Water Service are not being completed promptly or diligently, or (b) upon the request of any interested party, who asserts that due to unique or unusual circumstances there may be a need to use Potable water for irrigation of a Recycled Water Irrigation Area for a period longer than the period of time reasonably required to promptly and diligently complete repair or replacement or other activities necessary to restore Recycled Water service. The purpose of the hearing is to determine the period of time during which, and what quantities of, Potable water shall continue to be supplied for irrigation of the affected Recycled Water Irrigation Area(s).

4. MPWMD shall give CAWD, PBCSD, Cal-Am, and the Owners of each affected Recycled Water Irrigation Area(s) not less than 30 days advance written notice for any such hearing, which notice shall set forth the basis of the hearing (as described in the preceding sentence).

5. Upon considering the evidence presented (including written materials that may be included in an Administrative Record), MPWMD may determine the period of time during which, and what quantities of, Potable water shall continue to be supplied for irrigation of the affected Recycled Water Irrigation Area(s). MPWMD shall give CAWD, PBCSD, Cal-Am, and the Owners of the affected Recycled Water Irrigation Area(s) written notice of such determination, and the determination shall be effective on the 15th day following service of the notice by personal delivery or by facsimile,

whereupon, each party shall immediately comply with the determination or timely challenge the same in court.

6. If MPWMD has adopted an ordinance in response to any emergency caused by drought, or other threatened or existing water shortage pursuant to section 332 of the Monterey Peninsula Water Management Law, said ordinance shall prevail over contrary provisions of this Subsection F.

7. If (1) an emergency or major disaster is declared by the President of the United States, or (2) a "state of war emergency," "state of emergency," or "local emergency," as those terms are respectively defined in Government Code section 8558, has been duly proclaimed pursuant to the California Emergency Services Act, with respect to all or any portion of the territory of MPWMD, the provisions of this Subsection F shall yield as necessary to respond to the conditions giving rise to the declaration or proclamation.

## G. DEFINITIONS *IN RULE 23.5*

For the purpose of ~~Ordinance No. 109 and~~ Rule 23.5, the following words shall have the meanings set forth below. Other words which are defined in Rule 11 to the Rules and Regulations, when used in Rule 23.5 ~~or the ordinance~~ shall have the meanings set forth therein, unless the context otherwise indicates.

"Actual use of water" means the quantity of water that has passed through the water meter or meters installed to measure it.

"Ancillary Project Costs" means net revenues (gross revenues less allocable operation and maintenance costs and administrative and general costs as such terms are defined in accord with generally accepted utility practices), with respect to the Potable water, subject, from time to time, to the Water Entitlement, which Cal-Am shall not receive by reason of operation of the Project. Ancillary Costs shall not include any return on assets of Cal-Am which have been removed from the Water Distribution System rate base by reason of the Project. Ancillary Costs shall be reduced over time by net revenues received by Cal-Am by reason of sales of Potable water to the Benefited Properties following the first date of Project operation.

"Benefited Properties" means ***all real property within the boundaries of the unincorporated portions of the Del Monte Forest as defined in Exhibit "B" of the***

***Supplemental Financial Commitment, as amended, and such additional real property as has been designated and included as Benefited Properties under the Fiscal Sponsorship Agreement pursuant to amendments thereto as approved by the MPWMD Board.*** ~~those properties described on Exhibit A hereto, within the Cal-Am Service Area on which a portion of the Water Entitlement may be utilized. All Benefited Properties are located in the unincorporated portion of the Del Monte Forest (the area shown on Exhibit B) except as otherwise noted in Exhibit A.~~

"Cal-Am" means the California American Water Company, a California corporation, its successors and assigns.

"Capital Costs" as applied to the Project or any portion thereof means all or any part of:

a. the cost of acquisition of all lands, structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for the Project, inclusive of fees and commissions for acquisition;

b. the cost of construction of the Project, including without limitation, demolition, modification, replacement or renovation of existing structures, facilities, fixtures or equipment essential to the construction and operation of the Project; cost of improvements and materials; direct and indirect construction and administration expenses of each of the Public Participants properly allocable to the Project in accordance with generally accepted accounting principles; costs of painting, decorating, furnishing and landscaping; contractor and subcontractor profit; and costs related, by reason of the Project, to plumbing, mains, tanks, or pipes which are modified, replaced, or renovated, whether owned by Public Participants or others;

c. the cost of demolishing or removing any buildings, fixtures, equipment, or structures on land so acquired, including, without limitation, the cost of acquiring any lands to which such buildings or structures may be moved;

d. the cost of all new machinery, piping, equipment and furnishings, and the lesser of (i) the fair market value, or (ii) depreciated value for purposes of the applicable rate base, of machinery, piping, equipment and furnishings

made obsolete or unusable to Cal-Am or any of the Public Participants by reason of the Project to the extent not replaced by the Project;

e. costs of selling and issuing the Certificates of Participation, including, without limitation, the underwriter's discount;

f. interest on any funds advanced to permit payment of any of the Capital Costs prior to, during, and for a reasonable period after completion of the acquisition and construction of the Project as determined by PBC and MPWMD, including, without limitation, capitalized interest on the Certificates of Participation;

g. the Operating Reserve, as defined in the Fiscal Sponsorship Agreement;

h. the cost of architectural, engineering, planning, environmental analysis, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, permits, fees, adverse claims, personnel and overhead costs (both direct and indirect, to the extent properly allocable to the Project in accordance with generally accepted accounting principles), and other expenses necessary or incident to determining the feasibility of construction of any portion of the Project or incident to the planning, construction, acquisition, or financing of any portion of the Project, subject to independent audit and review pursuant to the Supplemental Construction and Operation Agreement, including, without limitation:

(1) payment during the construction period of the premiums for all title and other insurance, bonds, or undertakings required to be obtained and maintained with respect to any part of the Project, to the extent such amounts are not paid by any contractor who constructs or installs any portion of the Project;

(2) payment of the taxes, assessments and other fees or charges, if any, that may become payable during the construction period with respect to any portion of the Project, or reimbursement thereof; and

(3) payment of expenses incurred in seeking to enforce any remedy against any contractor or subcontractor in respect of any default

under a contract relating to the acquisition, construction or installation of any portion of the Project.

"Capital Costs of the Project Expansion" means costs falling within the preceding definition of Capital Costs that apply to the Project Expansion, and without limitation specifically includes payment of expenses incurred concerning the Project Expansion, the need therefore, and related matters beginning on January 1, 1995, and continuing through the drafting, negotiation, and execution of any and all agreements necessary or desirable to implement the design, construction, operation, and maintenance of the Project Expansion and any modifications thereof or thereto.

"CAWD" means the Carmel Area Wastewater District ~~(formerly known as the Carmel Sanitary District)~~, a public agency.

"CAWD/PBCSD" means both the Carmel Area Wastewater District and the Pebble Beach Community Services District~~, in reference to the Project~~.

"Certificates of Participation" means the Certificates of Participation issued by MPWMD in 1992 in the amount of $33.9 million to finance the Capital Costs of the Original Project.

"Completed" with respect to the Project Expansion shall mean that (1) all required permits or other approvals have been obtained, and (2) all construction activities for the advanced treatment components (being added to the tertiary treatment plant facilities of the Original Project), Forest Lake Reservoir, and all treatment and distribution facilities associated therewith, have been completed and tested in accordance with their respective approved plans, permits and other approvals, and (3) Forest Lake Reservoir has been filled to capacity with "Recycled Water" suitable for irrigation of all portions of the Recycled Water Irrigation Areas without the addition of any ***P***~~p~~otable water thereto and otherwise meeting all regulatory and health standards for such usage, and (4) all portions of the distribution system are capable of delivering such Recycled Water to the Recycled Water Irrigation Areas. The Project Expansion shall be deemed Completed only if and when each of the events described in the preceding sentence have occurred.

"Construction and Operation Agreement" means the Wastewater Reclamation Project Construction and Operation Agreement among the Monterey Peninsula

Water Management District, Carmel Area Wastewater District, the Pebble Beach Community Services District, and the Pebble Beach Company, dated as of November 1, 1990, as it may be amended from time to time.

"Del Monte Forest" means the area of unincorporated Monterey County described and/or depicted on Exhibit "B"

"Financial Commitment" means the commitment of PBC, as the Fiscal Sponsor or any subsequent Fiscal Sponsor, to assume and guarantee payment of (1) the Capital Costs of the Original Project (including the payment of the principal of and interest on the Certificates of Participation or any bonds or other obligations issued by any Public Participant to finance such costs), and (2) the Net Operating Deficiencies of the Project until the Certificates of Participation (and any bonds or other obligations issued by any Public Participant to finance such costs) have been paid in full (or for any shorter periods as permitted by MPWMD), and (3) payment of all Ancillary Project Costs.

"Financing Implementation Agreement" means the Financing Implementation Agreement Relating to Wastewater Reclamation Project, dated as of November 1, 1992, by and between MPWMD and PBC, as it may be amended from time to time.

"Fiscal Sponsor" means PBC and any person or persons (including partnerships, corporations, municipal corporations, or other public entities) that may succeed PBC and assume, as the Fiscal Sponsor, all of PBC's obligations pursuant to Part II of Ordinance No. 39, Ordinance No. 109, the Fiscal Sponsorship Agreement, and any amendments thereof, which person or persons shall be obligated, and liable for, and capable of paying the Capital Costs and Net Operating Deficiencies of the Project.

"Fiscal Sponsorship Agreement" means the Wastewater Reclamation Project Fiscal Sponsorship Agreement between the Monterey Peninsula Water Management District and Pebble Beach Company, dated as of October 3, 1989, as it may be amended from time to time.

"Freed-up Water" means ~~P~~potable water which has been freed for new use by reason of Recycled Water deliveries from the Project. "Freed-Up Water" has the same meaning as "Franchise Water" in Ordinance No. 39.

"General Manager" means the General Manager of MPWMD.

"Interruption" means an interruption for longer than 12 hours in the supply of Recycled Water to a Recycled Water Irrigation Area.

"MPWMD" means the Monterey Peninsula Water Management District, a public agency.

"Net Operating Deficiency" as applied to the Project means, for any fiscal year or portion thereof, the difference between the Operating Revenues and the Operation and Maintenance Expenses for such period.

"Operation and Maintenance Expenses" as applied to the Project means all expenses and costs of management, operation, maintenance and repair of the Project, including, without limitation, payments to be made by the Public Participants under agreements with Cal-Am for the purchase of Potable water, and all incidental costs, fees and expenses incurred for such purpose properly chargeable to the Project in accordance with generally accepted accounting principles, including an allowance for depreciation, amortization, and obsolescence which is determined pursuant to generally accepted utility practices (subject to limitations set forth in the agreements applicable to the Project including but not limited to the Construction and Operation Agreement and the Fiscal Sponsorship Agreement), further provided, however, that Operation and Maintenance Expenses shall include all administrative expenses of MPWMD and PBC incurred in connection with, and properly allocable as an expense relating to the Project and the Certificates, and further provided however that Operation and Maintenance Expenses shall include an amount equal to any reduction in real property taxes allocated to MPWMD caused by a change in State law which results in a reduction of such tax allocation based on the collection of the Operating Revenues from the sale of the Recycled Water.

"Operating and Maintenance Reserve Fund," also called "O&M Reserve Fund," means a reserve maintained and held, pursuant to the Water Purchase Agreement and the Financing Implementation Agreement, separate and apart from other funds for the purpose of paying for Operations and Maintenance Expenses as they become due and payable to the extent Operating Revenues are insufficient to provide for such payments, providing working capital, and paying for routine and extraordinary repairs and replacements.

"O&M Reserve Requirement" means the amount calculated on or before July 1 of each year by the Management Committee to be equal to one quarter (1/4) of the projected amount of Operation and Maintenance Expenses for the immediately succeeding fiscal year as such amount may be revised upward or downward during the course of such fiscal year.

"Operating Revenues" as applied to the Project means all income, rents, rates, fees, charges and other moneys derived by the Public Participants from the ownership or operation of the Project, including, without limiting the generality of the foregoing: (i) all income, rents, rates, fees, charges or other moneys derived from the sale, furnishing and supplying of the reclaimed, ~~sub~~***Non-P*~~p~~otable water (or from ***p*~~P~~**otable water supplied in lieu thereof); (ii) insurance and condemnation proceeds resulting from damage to or destruction of the Project facilities, or from the condemnation of any of such facilities; and (iii) interest earned on all revenues mentioned in (i) and (ii) above or on any fund or account relating to the Project under the Trust Agreement (excluding any amounts required to be rebated to the United States pursuant to Section 148 of the Internal Revenue Code) provided, that such term shall not include customers' deposits or any other deposits subject to refund until such deposits have become the property of one of the Public Participants or the water supply surcharge retained by MPWMD in connection with the sale of Recycled Water in accordance with the Financing Implementation Agreement.

"Original Project" means and consists of (1) a tertiary treatment facility at the present CAWD wastewater treatment plant site, designed to produce at least 800 Acre-Feet per year of disinfected recycled water, (2) a distribution system which is capable of distributing the recycled water from the facility to a point of distribution in the Del Monte Forest for further distribution to the Recycled Water Irrigation Areas, and (3) recycled water irrigation systems on each of the Recycled Water Irrigation Areas, all of which were completed and became operational in 1994.

"Owner" means the holder (of record) of fee title to any Benefited Property.

"PBCSD" means the Pebble Beach Community Services District, a public agency.

"Project" means the Original Project and the Project Expansion.

"Project Expansion" means and consists of components intended to improve the Original Project, principally including (but not limited to) (a) the addition of advanced treatment components to the treatment facilities of the Original Project, and (b) the addition of storage, treatment, and distribution facilities at or associated with the Forest Lake Reservoir located within the Del Monte Forest.

"Public Participant" means any one or more of the following: the Monterey Peninsula Water Management District, the Carmel Area Wastewater District, formerly the Carmel Sanitary District, the Pebble Beach Community Services District, or any successor public agency including but not limited to any joint powers agency formed by one or more of the above agencies.

The meaning of the term "Recycled Water" depends upon whether or not the Project Expansion is Completed:

*1.*~~a.~~ Before the Project Expansion is Completed, "Recycled Water" shall mean water originating from the tertiary treatment facilities of the CAWD wastewater treatment plant.

*2.*b. After the Project Expansion is Completed, "Recycled Water" shall refer to water originating from said tertiary treatment facilities and thereafter receiving further treatment so as to be suitable for irrigation of the Recycled Water Irrigation Areas without the addition of any Potable water thereto (except during an Interruption as defined herein) and otherwise meeting all regulatory and health standards for such usage. Recycled Water meeting water quality standards agreed upon by the owners of the Recycled Water Irrigation Areas and CAWD/PBCSD shall be deemed "suitable for irrigation of the Recycled Water Irrigation Areas." "Recycled Water" has the same meaning as "Reclaimed Water."

"Recycled Water Irrigation Areas" means the golf courses and other vegetated areas located within the Del Monte Forest that are currently being irrigated with Recycled Water supplied by the Project or such golf courses and other vegetated areas wherever located that in the future may be irrigated with Recycled Water supplied by the Project.

"State Water Resources Control Board" and "SWRCB" each mean the state agency created pursuant to Water Code sections 174 and 175 which exercises the

adjudicatory and regulatory functions of the State of California in the field of water resources.

"Supplemental Financial Commitment" means all of the following:

1. the irrevocable written commitment by PBC to pay all Capital Costs of the Project Expansion, using funds raised through the sale of such portions of its Water Entitlement pursuant to Subsection C of Section Three of Ordinance 109 (combined with any funds which may be independently committed by PBC, IRWUG, CAWD, PBCSD, or any other entity willing to commit funds to the Capital Costs of the Project Expansion), and to continue to pay the Net Operating Deficiencies of the Project until the Certificates of Participation (and any bonds or other obligations issued by any Public Participant to finance such costs) have been paid in full (or for any shorter periods as permitted by MPWMD), and to continue to pay all Ancillary Project Costs; and

2. the written representation by each of PBC, CAWD, and PBCSD that each is prepared and intends forthwith to commence construction of the Project Expansion and to proceed diligently therewith until the Project Expansion is Completed.

"Terminate" means the withdrawal, without formal MPWMD action, of authority to act as previously provided by a valid permit or water service connection, whichever is applicable.

"Trust Agreement" means the Trust Agreement by and between First Trust of California, National Association, as Trustee and MPWMD dated as of November 1, 1992, relating to $33,900,000 Variable Rate Demand Certificates of Participation (Wastewater Reclamation Project) Series 1992, as it may be amended from time to time.

"Water Entitlement" means an aggregate of 380 Acre-Feet per year of Potable water which has been dedicated (as evidenced by Water Use Permits issued pursuant to Ordinance No. 39, the Resolution, and the Fiscal Sponsorship Agreement) to land within the jurisdiction of MPWMD for the purpose of providing for the payment of the Capital Costs, Ancillary Project Costs, and Net Operating Deficiencies of the Original Project. Ordinance No. 109 provides a

process by which a portion of the Water Entitlement held by PBC may be separately sold and conveyed and thereby be dedicated to other land within the Del Monte Forest with the proceeds therefrom to be applied to the costs of the Project Expansion and the Original Project as more specifically described therein.

"Water Purchase Agreement" means the Water Purchase Agreement by and among MPWMD, CAWD, and PBCSD dated as of November 1, 1992, as it may be amended from time to time.

"Water Use Permit" means a writing from MPWMD which evidences the dedication of the Water Entitlement as a present vested property right enuring to the use and benefit of one or more of the Benefited Properties. A Water Use Permit shall by non-discretionary ministerial action, cause the present Connection to or modification of the California American Water Distribution System for Benefited Properties upon designation of the location of use and upon payment of applicable Capacity Fees and fees, and issuance of a Water Permit as provided in Rule 23.5.

**Section Seven: Amendments to Rule 24-D, Calculation of Capacity Fees**

A. Rule 24-D (Calculation of Capacity Fees) shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

**D. CALCULATION OF CAPACITY FEES**

The Capacity Fee paid for a Water Permit shall be determined by multiplying the Adjusted Water Use Capacity by the current Capacity Fee. This charge shall be applied to each application for a Water Permit as follows:

1. Projects served by the ~~Main~~ California American Water Company System and Seaside Municipal Water Company shall pay 100 percent of the final calculation.

2. All other Water Distribution Systems including private Wells and other Water Distribution Systems ~~owned and/or operated by California American Water Company outside of the main system~~ shall pay 18.67 percent of the final calculation.

**Section Eight: Amendments to Rule 25.5, Water Use Credits and On-Site Water Credits**

Rule 25.5 Sections A through F shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~). No other edits are made to Rule 25.5.

## RULE 25.5 - WATER USE CREDITS AND ON-SITE WATER CREDITS

A. Except where a Water Permit has been abandoned, expired, Revoked, Suspended, or canceled under these Rules, a Person may receive a Water Use Credit for the permanent abandonment of some or all ~~of the~~ prior water use on that Site by one of the methods set forth in this Rule. Water Use Credits shall be documented by written correspondence between the District and the property owner, and shall remain valid unless ***expired or*** prohibited by this Rule. Water Use Credits shall not be documented by notice on a property title, except as specified in Rule 25.5-H. Except as allowed by Rule 28, Water Use Credits shall not be transferable to any other Site.

B. Water savings resulting from mandatory compliance with Regulation XIV, Water Conservation, shall not result in a Water Use Credit, with the exception of Table 4 retrofits. Such savings shall be set aside as permanent water conservation savings.

C. A Water Use Credit may be applied to and shall allow future water use on that Site at any time within a period of ***sixty (60)*** months ***from the date the Permanent Abandonment of Capacity occurred***. After the 60th month, the General Manager shall allow renewal of this Water Use Credit only upon verification that some or all water savings represented by that credit are current (i.e. no Water Permit or other use or transfer of the Water Use Credit has occurred). If all savings are not current, a pro-rata reduction shall occur. A single renewal period of 60 months shall be allowed; thereafter any remaining unused Water Use Credit shall expire.

D. A Water Use Credit on a Redevelopment Project that was documented prior to February 1, 2012, may, in addition to the time limits and in the manner set forth above, have its expiration date extended for two (2) additional periods of ~~sixty (60)~~ months each, to afford any such Redevelopment Project a maximum period of two hundred forty (240) months to use that credit.

E. The following types of Permanent Abandonment of Capacity shall qualify for a Water Use Credit under this Rule:

1. Demolition of a building or use that has been recognized by the District as being a lawful water use;

2. Demolition or removal of Exterior Restaurant Seats specifically permitted by debiting Water Use Capacity from an Allocation, Entitlement, ~~or~~ Water Credit ***or Water Use Credit***;

3. Permanent disconnection of a lawful water use from a Water Distribution System;

4. Residential removal of ***District-documented and lawful*** water fixtures ***listed in Rule 24, Table 1: Residential Fixture Unit Count Values and the associated plumbing for those fixtures so there is no evidence of the removed water fixture***;

5. Permanent installation of ***water fixtures or appliances that are designed to achieve greater water efficiency than mandated in District Rule 142 and Rule 143*** ~~non-mandated water fixtures or appliances~~.

6. Removal of established Lawn on sports fields at a Public School District Site.

F. To determine a Water Use Credit, the General Manager shall:

1. Verify that the reduction is one which is permanent (i.e. Permanent Abandonment of Use) ***and the date that Permanent Abandonment of Use occurred***.

2. Quantify the Water Use Capacity of the Site using the water use factors from Rule 24, Tables 1 and/or 2. If no factor is available on Table 2 or if the use is substantially different than any of the uses shown on Table 2, the General Manager may make an estimate based upon water records showing the average use over a minimum of eight (8) years.

3. Grant a Water Use Credit for the permanent removal of water using fixtures ~~providing that~~ ***if*** the fixture was properly and lawfully installed. Credit for fixtures listed in Rule 24-A-2 shall only receive a Water Use Credit upon

evidence of a Water Permit showing a debit to a Jurisdiction's Allocation and payment of related Capacity Fees.

**Section Nine:** **Amendments to Rule 32, Water Resource System Production and Sales Limits**

Rule 32 shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

## A. RESOURCE LIMITS*

The total annual P roduction Limit from the Monterey Peninsula Water Resource System shall be ***established annually pursuant to Rule 160 and reflected in Table XV-4 as "Carryover Storage Needs for Next Year Demand".*** ~~increased &om 19,881 Acre Feet to 20,686.52 Acre-Feet. California American Water's annual water supply capacity limit shall be increased from a production level of 16,744 Acre-Feet to a production level of 17,640.81 Acre Feet. Of this, 16,405.95 Acre Feet shall be available for annual water sales to consumers within the California American Water system due to system losses and unmetered consumption. Non-California American Water water production shall not exceed a level of 3,045.71 Acre-Feet per year.~~

~~**32-A reflects action taken by the Board of Directors through the various ordinances listed. However, action taken by the State Water Resources Control Board and the Seaside Adjudication put constraints on these numbers.*~~

~~*The effective limit on California American Water's annual production from the Carmel River and underlying Carmel Valley Alluvial Aquifer is 11,285 AFY as specified in State Water Resources Control Board Order No. WR95-10 adopted July 6, 1995. The effective limit on California American Water production from the coastal subarea of the Seaside Groundwater Basin is 3,504 AFY as specified in California American Water v. City of Seaside, et al (Case No. M66343) entered March 27, 2006. The effective total annual production limit for California American Water from the MPWRS is 14, 789 AFY.*~~

## B. ACCOUNTING

Each new water Connection or ***Water*** Permit for expanded water use shall be strictly accounted for, and each new water use shall be debited from ~~the water supply available to both the Monterey Peninsula Water Resource System, the Water Distribution System affected by that new or expanded water use, and debited~~ from the appropriate Jurisdiction or ***Entitlement*** ~~District Reserve Allocation~~.

**Section Ten: Amendments to Rule 141, Water Conservation Rebates**

A. Rule 141-A (Qualifying Devices) shall be amended to delete the list of Rebate eligible devices as the list is repeated in Rule 141-B, Table XIV-1, Rebate Amounts. Additions to this Rule are shown in ***bold italics*** and deletions are shown in ~~strikethrough~~.

RULE 141-A QUALIFYING DEVICES

Rebates are available for purchase of the following Qualifying Devices within the boundaries of the Monterey Peninsula Water Management District. Qualifying Devices and the associated Rebate amount are shown in Table XIV-1:

A. QUALIFYING DEVICES

Rebates are available for purchase of the following Qualifying Devices within the boundaries of the Monterey Peninsula Water Management District. Qualifying Devices and the associated Rebate amount are shown in Table XIV-1~~:~~.

~~1. High Efficiency Dishwasher;~~

~~2. High Efficiency Clothes Washer in a Residential use;~~

~~3. Instant-Access Hot Water System;~~

~~4. High Efficiency Toilet;~~

~~5. Zero Water Consumption Urinal;~~

~~6. One or more Cisterns installed as a component of an Irrigation System. Maximum available Rebate shall be for 25,000 gallons of Cistern storage capacity on a Qualifying Property;~~

~~7. Smart Controller;~~

~~8. Soil Moisture Sensors that control the irrigation cycles of a conventional automatic Irrigation System controller or Smart Controller. Gypsum block Soil Moisture Sensors shall not be included on the list of Qualifying Devices;~~

~~9. Removal of established Lawn and replacement with low water use plants or permeable surfaces (maximum of 2,500 square feet);~~

~~10. High Efficiency Urinal in a Residential use;~~

~~11. Pint Urinal;~~

~~12. Rotating Sprinkler Nozzle;~~

~~13. Water Broom. Maximum available Rebate shall be for two Water Brooms per Qualifying Property;~~

~~14. Commercial High Efficiency Clothes Washer at a Residential Site;~~

~~15. Lawn removal Rebate at a Public facility may exceed the square footage limitation subject to Board approval.~~

~~16. Cooling Tower Conductivity Controller;~~

~~17. Water Efficient Ice Machine;~~

~~18. X-ray film processor recirculation system;~~

~~19. Cooling Tower Conductivity/pH Controller;~~

~~20. Dry Vacuum Pump;~~

~~21. Graywater Irrigation System;~~

~~22. High Efficiency Connectionless Food Steamer;~~

~~23. High Efficiency Commercial Dishwasher;~~

~~24. Retrofit of a medical equipment steam sterilizer that utilizes a continuous water flow with a water tempering device;~~

~~25. Ultra High Efficiency Toilet;~~

~~26. Toilet Flapper.~~

~~27. Removal of whirlpool (or jetted water system) bathtub in Visitor Serving Facility;~~

~~28. Non-Residential Rebates for technology not listed in Rule 141 shall be considered on a case-by-case basis by the Water Demand Committee. The Water Demand Committee shall make a recommendation to the Board.~~

B. Rule 141-B, Table XIV-1, Rebate Amounts, shall be amended to reduce the Rebate for toilets, clarify that the Rebate for Pint Urinals and High Efficiency Clothes Washers are available only to Residential uses, delete the Rebate for ice machines (now a requirement in Rule 143), and add a Rebate for Meter Splits at Multi-Family Residential Sites. Additions to this Rule are shown in ***bold italics*** and deletions are shown in ~~strikethrough~~.

**Table XIV-1**
**Rebate Amounts**
***Updated October 18, 2017***

| Qualifying Device | Maximum Rebate |
|---|---|
| High Efficiency Toilet | ~~$100~~ ***$75*** |
| Ultra High Efficiency Toilet | ~~$150~~ ***$125*** |
| Toilet Flapper | $15 |
| Pint Urinal (***in a Residential use only)*** | $250 |
| Zero Water Consumption Urinal | $250 |
| High Efficiency Dishwasher (Residential) | $125 |
| High Efficiency Clothes Washer (Residential[1]) | $500 |
| Instant-Access Hot Water System (per Qualifying Property) | $200 |
| On-demand hot water pump or point of source water heater (maximum of two per Qualifying Property) | $100 |
| Graywater Irrigation System supplied by one Clothes Washer | $100 |
| Graywater Irrigation System supplied by one or more Bathrooms that have a Bathtub/Shower connected to a Graywater Irrigation System. Residential limit: 4. | $100 per Bathroom |

[1] ***Includes Residential appliances in a Common Laundry Room on a Multi-Family Residential Site.***

| ***Non-Residential Graywater system*** | ***Case-by-case basis*** |
|---|---|
| Smart Controller | $100 for up to four stations. An additional $10 shall be available per station up to twenty (20) stations |
| Soil Moisture Sensor(s) on a conventional automatic Irrigation System (gypsum block Soil Moisture Sensors shall not qualify for Rebate) | $25 |
| Cistern water tanks installed on Sites supplied with water from the Monterey Peninsula Water Resource System (per Qualifying Property) | $50 per 100 gallons for the first 500 gallons and $25 per 100 gallons of water storage capacity to a maximum storage capacity of 25,000 gallons |
| Lawn removal and replacement with low water use plants or permeable surfaces[1] (Prequalification required - See MPWMD Rule 141-F) | $1.00 per square-foot to a maximum of 2,500 square-feet |
| Rotating Sprinkler Nozzle (minimum purchase and installation of ten) | $4 each |
| Water Broom | $150 |
| Commercial High Efficiency Clothes Washer ***in a Residential or Multi-Family Residential use***. ~~*A Multi-Family Residential Qualifying Property with a Common Laundry Room shall be considered a Non-Residential use.*~~ | $1,000 |
| Commercial Ozone Laundry System | $1,000 |
| Cooling Tower Conductivity Controller | $1,000 |
| Cooling Tower Conductivity/pH Controller | $2,500 |
| ~~CEE Tier II Water Efficient Ice Machine~~ | ~~$500~~ |
| High Efficiency Connectionless Food Steamer (per compartment) | $1,500 |
| Commercial Waterless Wok Stove | $5,000 |
| Water Efficient Commercial Steam or Combi Oven | $2,500 |
| High Efficiency Commercial Dishwasher | |
| Under counter model | $1,000 |
| Single tank door type model | $1,500 |
| Single tank conveyor | $2,000 |

[1] Lawn removal Rebate at a Public facility may exceed the square-footage limitation subject to Board approval.

| | |
|---|---|
| Multi-tank conveyor | $2,500 |
| ~~Non-Residential Graywater Irrigation System~~ | ~~Inquire~~ |
| X-ray film processor recirculation system | $2,500 |
| Medical equipment steam sterilizer retrofit with a water tempering device | $1,500 |
| Dry Vacuum Pump (per 0.05 HP to a limit of 4 HP) | $200 |
| ***Multi-Family Dwelling Meter Split*** | ***$100/dwelling unit*** |

C. Rule 141-C-3 (Eligibility) shall be amended as shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions) to allow subsequent Rebates for replacement of High Efficiency Clothes Washers after eight years, as recommended by Consumer Reports. Rebate applications for replacement of High Efficiency Clothes Washers that were denied in the past year due to a previous Rebate shall be processed.

3. Rebates shall be available only for the initial purchase of a Qualifying Device. Rebates shall not be issued for replacement of an existing Qualifying Device ~~with the exception of~~ ***except for*** High Efficiency Clothes Washers that have been removed from the Qualifying Property by a previous owner/tenant ***or that are being replaced after eight or more years***. Applicants submitting an application for a High Efficiency Clothes Washer Rebate on a Site that has previously qualified for a High Efficiency Clothes Washer Rebate may be required to provide information to substantiate a subsequent Rebate.

D. Rule 141-C-7-a shall be deleted as shown in strikethrough (~~strikethrough~~) and the section renumbered.

7. Non-Residential Rebates
   a. ~~Water Efficient Ice Machines shall be listed as CEE Tier II.~~

E. Rule 141-D (Conditions of Approval) shall be amended as shown in ***bold italics*** to clarify that a Rebate will be held until installation of the new Water Meter has been verified.

***9. Multi-Family Dwelling Meter Split Rebates shall only be approved and processed after verification that a Water Meter has been installed by the Water Distribution System Operator.***

**Section Eleven: Amendments to Rule 142, Water Efficiency Standards**

Rule 142-D, Water Efficiency Standards, shall be amended to include the following text from former Rule 154:

24. ***Visitor-Serving and Public and Quasi-Public Facilities shall display in visible locations in all restrooms, kitchens, and dining areas, placards or decals approved by the District promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.***

25. ***The owner and/or manager of rental property shall provide current and new tenants with information about the water conservation requirements, including the Water Waste and Non-Essential Water Use regulations of the District. This information shall be readily accessible on a tenant portal website with annual notification of its presence, or when notice is not provided electronically, the owner and/or manager shall annually provide written information to existing tenants and to new tenants as they move in.***

26. ***Visitor-Serving Facilities shall promote towel and linen reuse programs by providing written notice in the rooms, whereby towels and linens are changed every three days or as requested by action of the guest.***

27. ***Visitor-Serving Facilities shall provide written notice that drinking water is available only upon request. Notification of this requirement shall be provided on the table(s) or menu(s) of each facility. Visitor-Serving Facilities shall not provide drinking water from the Monterey Peninsula Water Resource System at the table unless specifically requested.***

28. ***Facilities utilizing alternative sources of irrigation water (i.e. purified recycled water, Non-Potable Water, rainwater and Graywater, etc.) shall be encouraged to provide notice of the alternative supply, either by erecting a sign in compliance with local codes or by identifying the alternative supply in other venues such as in newsletters, websites, menus, etc.***

**Section Twelve: Amendments to Rule 143, Water Efficiency Standards for Existing Non-Residential Uses**

Rule 142, Water Efficiency Standards for Existing Non-Residential Uses, shall be amended to include the following text from former Rule 154:

*M.* ***Visitor-Serving and Public and Quasi-Public Facilities shall display in visible locations in all restrooms, kitchens, and dining areas, placards or decals approved by the District promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.***

*N.* ***The owner and/or manager of rental property shall provide current and new tenants with information about the water conservation requirements, including the Water Waste and Non-Essential Water Use regulations of the District. This information shall be readily accessible on a tenant portal website with annual notification of its presence, or when notice is not provided electronically, the owner and/or manager shall annually provide written information to existing tenants and to new tenants as they move in.***

*O.* ***Visitor-Serving Facilities shall promote towel and linen reuse programs by providing written notice in the rooms, whereby towels and linens are changed every three days or as requested by action of the guest.***

*P.* ***Visitor-Serving Facilities shall provide written notice that drinking water is available only upon request. Notification of this requirement shall be provided on the table(s) or menu(s) of each facility. Visitor-Serving Facilities shall not provide drinking water from the Monterey Peninsula Water Resource System at the table unless specifically requested.***

*Q.* ***Facilities utilizing alternative sources of irrigation water (i.e. purified recycled water Non-Potable Water, rainwater and Graywater, etc.) shall be encouraged to provide notice of the alternative supply, either by erecting a sign in compliance with local codes or by identifying the alternative supply in other venues such as in newsletters, websites, menus, etc.***

**Section Thirteen: Amendment to Rule 144-D, Retrofit Upon Change of Ownership or Use**

Rule 144-D-4 shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~) to extend the time after Change of Ownership or Use to comply with the Water Efficiency Requirements of Rule 142.

4. The General Manager may conditionally extend the proof of retrofit requirement of this section where the seller, buyer, or ***Non-Residential*** tenant certifies that the

structure will begin to be Remodeled or modified within one hundred and ~~twenty~~ ***eighty*** (~~120~~ ***180***) days of the Change of Ownership or Change of Use, that the structure will comply with Regulation XIV upon completion of construction, and the District shall be both contacted and allowed inspection of the property by District staff or its authorized agent ***upon project completion*** ~~within 180 days (i.e. six months) of the date of this requirement~~. Incremental extensions of ~~90~~ ***180*** days may be allowed until completion of the Remodel or modification.

**Section Fourteen: Deletion of Rule 154 – Conservation Message Requirements**

Rule 154 shall be deleted as the requirements have been moved to Rule 142 and Rule 143.

**Section Fifteen: Publication and Application**

The provisions of this ordinance shall cause the amendment and republication of Rules 11, 23, 23.5, 24, 25.5, 32, 141, 142, 143, 144, and 154 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

**Section Sixteen: Effective Date and Sunset**

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

This Ordinance shall not have a sunset date.

**Section Seventeen: Severability**

If any subdivision, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director _____, and second by Director _____, the foregoing ordinance is adopted upon this ____ day of _____, 2017, by the following vote:

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true, and correct copy of an ordinance duly adopted on the _____ day of _____, 2017.

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

_____

David J. Stoldt, Secretary to the Board

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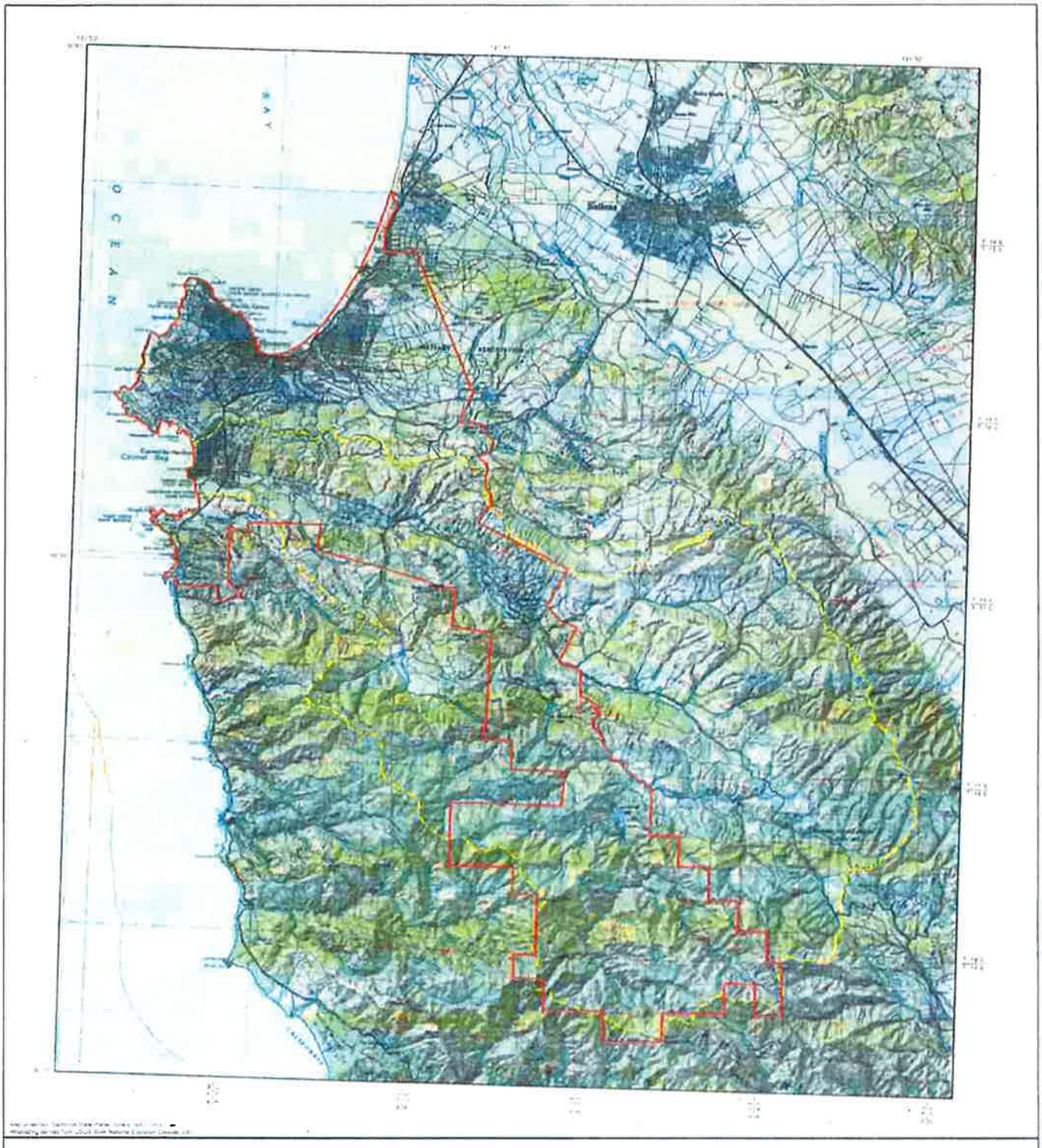
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