

EXHIBIT 11-A

Second Reading Draft

ORDINANCE NO. 189

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
CLARIFYING AND AMENDING RULES RELATED TO DEFINITIONS (RULE
11), WATER DISTRIBUTION SYSTEMS (RULE 21), WATER PERMITS (RULES
23 AND 24), WATER USE CREDITS (RULE 25.5), AND REBATES (RULE 141);
DELETING RULE 91 (SHORT TERM VARIANCE); AND REVISING THE
TITLE OF REGULATION XV**

FINDINGS

1. The Monterey Peninsula Water Management District (District or Water Management District) is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. The Monterey Peninsula Water Management District has found and determined that it is in the best interests of the Monterey Peninsula Water Management District and its inhabitants to define, implement and enforce water efficient plumbing standards and requirements for the conservation of Potable water supplies. Retrofit or replacement of existing plumbing fixtures lessens consumption of the limited water resources available on the Monterey Peninsula. Installation of water efficient plumbing fixtures reduces the burden of new, expanded or modified uses on the water resources.
4. This ordinance adds a definition of a “Public Water System” to Rule 11 as defined by the State Water Resources Control Board, Division of Drinking Water (DDW). This is to facilitate an added requirement to Rule 21 for DDW preliminary approval prior to District consideration of a Water Distribution System Permit. DDW has been critical of small WDS that may not have adequate long-term water supply.

5. This ordinance adds a definition for “Smart Flowmeters” to facilitate the addition of a rebate to Rule 141.
6. This ordinance amends the Water Factor for High Efficiency Clothes Washers and High Efficiency Dishwashers to be consistent with the factors used in the U.S. Environmental Protection Agency’s Energy Star program. The District requires Energy Star certification for both appliances.
7. This ordinance clarifies language related to the processing of Water Permits for tenant improvements, submetering and reporting requirements.
8. This ordinance allows permanent submetering of a User’s consumption in Multi-Family Dwellings or Residential Common Interest Developments of more than four units and in the project’s the common areas. Conditions require reporting at the submeter level to the District upon request and monthly or more frequently during water rationing.
9. This ordinance codifies a process whereby the District issues a Water Permit waiver when requested by a Jurisdiction or Applicant.
10. This ordinance establishes criteria for use of a Mobile Water Distribution System for filling a Swimming Pool.
11. This ordinance codifies the practice that there is no change in Capacity when a High Efficiency Clothes Washer is installed in a Multi-Family Dwelling or Common Interest Development. High Efficiency Clothes Washers are required in Common Laundry Rooms at Multi-Family Residential and Common Interest Development Sites, and it is assumed that they are used by the tenants/occupants. For this reason, locating a High Efficiency Clothes Washer within an existing Dwelling Unit in a Multi-Family Dwelling does not increase Capacity.
12. This ordinance specifies that no credit or reduced Water Use Capacity shall be granted to a Non-Residential User who proposes to locate/relocate a component of that business to an out-of-District location or to another Water Distribution System.
13. This ordinance deletes Rule 91, Short Term Variance, as the rule is obsolete.
14. This ordinance allows a Rebate for the replacement of High Efficiency Dishwashers and Ultra-High Efficiency Toilets when they are replaced at least ten years after the initial Rebate.

15. This ordinance does not constitute a Project as that term is defined by Section 15378 of the California Environmental Quality Act (CEQA) as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the 2021 Rule Amendment Ordinance of the Monterey Peninsula Water Management District.

Section Two: Purpose

This ordinance clarifies and revises rules related to Definitions (Rule 11), Water Distribution Systems (Rule 21), Water Permits (Rules 23 and 24), Water Use Credits (Rule 25.5), and Rebates (Rule 141). The ordinance also deletes Rule 91 (Short Term Variance) and amends the title of Regulation XV to delete reference to the year it was adopted.

Section Three: Amendments to Rule 11

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

PUBLIC WATER SYSTEM – “Public Water System” shall mean a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections (Users) or regularly serves at least 25 individuals daily at least 60 days out of the year.

SMART FLOWMETER – “Smart Flowmeter” shall mean a device that accurately measures water use through plumbing. Smart Flowmeters report water use and send customizable alerts through a convenient web portal or mobile application. Customers can see their water use down to a fraction of a gallon and usage as frequently as every minute, keeping them informed of overall water use, potential high water use, or suspected leaks.

HIGH EFFICIENCY CLOTHES WASHER - “High Efficiency Clothes Washer (or HEW)” shall mean a Clothes Washer with a Water Factor of ~~5.0~~ **4.3** or less *that has Energy Star certification*.

HIGH EFFICIENCY DISHWASHER - “High Efficiency Dishwasher” shall mean a Dishwasher designed to use a maximum of ~~5.8~~ **3.5** gallons per cycle *and that has*. ~~A High Efficiency Dishwasher shall have~~ Energy Star certification.

Section Four: **Amendments to Rule 21**

Rule 21-A shall be amended with added language as shown in *bold italic* type face show below.

- p. An application for a Water Distribution System for a Public Water System must have preliminary approval from the Division of Drinking Water in the Department of Water Resources before District consideration of a Water Distribution System Permit.*

Section Five: **Amendments to Rule 23**

1. Rule 23-A-1-i shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face. These changes facilitate sub-metering at a Multi-Family Residential Site where the installation of multiple Water Meters owned by the Water Distribution System Operator would result in difficulties related to utility infrastructure and sidewalk safety. Current technology allows sub-metering to be installed that provides water use information for each User that can be reported to the District as needed.

- i. Water Meters maintained by the Water Distribution System Operator shall be installed for each Residential and Non-Residential water User except as allowed in 23-A-1-i-(3), (4), (5), and (6).
- (1) A Non-Residential User may extend water use to another Non-Residential User within an existing structure unless the Remodel or Addition requires a Water Permit for a Change of Use (as defined in Rule 11).
- (2) A Change of Use as defined in Rule 11 shall trigger the requirement for a separate Water Meter *if the User has a Bathroom or uses water as a component of their business (i.e., restaurant, Group II uses, manufacturing, etc.)*.

- (3) Users of multiple structures on a Site occupied by one Non-Residential User may apply for a variance of this Rule.
- (4) The General Manager shall allow sub-metering for each Multi-Family Dwelling (including condominiums and Common Interest Developments), Mixed Use, or Non-Residential User when the installation of separate Water Meters is not feasible and the User is utilizing Water Credits or an Entitlement on a Site that has a Connection. Applications for sub-metering of Single-Family Dwellings will be considered by the General Manager when the Jurisdiction confirms there is no potential that the sub-metered User could be located on a separate Site through subdivision or transfer of ownership of a portion of the Site. Approval of a Water Permit allowing sub-metering under this provision shall require recordation of a deed restriction on the title of the property that shall encumber current and future Site owners to comply with the following conditions:
- a. A Site's owner shall have Water Meters installed for each sub-metered User by the Water Distribution System Operator within ninety (90) days of the conclusion of a Connection moratorium. It is recommended that the sub-meter(s) be located in or near the future meter box to facilitate this requirement. Once Water Meters maintained by the Water Distribution System Operator have been installed, the deed restriction shall be removed.;
 - b. ***When requested*** ~~Annually~~ at the conclusion of the Water Year, ~~and within 30 days of change in tenancy,~~ the Site's owner shall provide the General Manager with individual monthly consumption for each User in a format acceptable to the District. Information shall identify the User of the sub-meter (e.g., apartment number or lease space number) and the number of residents in each Residential Dwelling Unit or the type of use according to Rule 24, Table 2, for each Non-Residential User;
 - c. During Stages **Four** of ~~The 2016~~ Monterey Peninsula Water Conservation and Rationing Plan (Regulation XV), sub-metered consumption shall be provided to the District monthly or more frequently if requested by the General Manager;

2. Rule 23-A-1-i shall be amended as shown below with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

- i. Water Meters maintained by the Water Distribution System Operator shall be installed for each Residential and Non-Residential water User except as allowed in 23-A-1-i-(3), (4), (5), ~~and (6)~~, ***and (7)***.

3. Rule 23-A-1-i shall be amended as shown below to add subparagraph 7, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

(7) ***The General Manager shall allow permanent sub-metering of each User's water use in a Multi-Family Dwelling or Residential Common Interest Development of more than four units and into the project's common areas. Approval of a Water Permit allowing sub-metering under this provision shall require recordation of a deed restriction on the title of the property that shall encumber current and future Site/common area owners to comply with the following conditions:***

b. ***When requested at the conclusion of the Water Year, the Site's owner shall provide the General Manager with individual monthly consumption for each User in a format acceptable to the District. Information shall identify the User of the sub-meter (e.g. apartment or condo number) and the number of residents in each Dwelling Unit and information about common area uses;***

c. ***During Stage Four of the Monterey Peninsula Water Conservation and Rationing Plan (Regulation XV), sub-metered consumption shall be provided to the District monthly or more frequently if requested by the General Manager;***

4. Rule 23-A-4 shall be added as shown below in ***bold italic*** type face.

4. **Water Permit Waiver**

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

Section Six: Amendments to Rule 24

1. New Rule 24-A-6 shall be inserted as shown below, with added language as shown in ***bold italic*** type face. Existing Rule 24-A-6 shall be moved to the end of the rule and renumbered as Rule 24-A-7.

6. ***Swimming Pools constructed with a condition prohibiting use of the local Potable Water Distribution System to fill the pool shall be required to secure their water supply from an entity that holds a current and valid Water Hauler's License from the Department of Public Health, Food and Drug Branch (FDB). The Water Hauler's License is required to haul more than 250 gallons by any means of transportation for drinking, culinary, or other purposes involving a likelihood of the water being ingested by humans. There shall be a minimum deduction to the Water Distribution System serving the property in the amount of 0.01 Acre-Foot Annually to offset potential maintenance demand in addition to the requirement to fill and maintain the pool using a licensed Mobile Water Distribution System.***

2. Rule 24-A-8 shall be added as shown below, with added language as shown in ***bold italic*** type face. High Efficiency Clothes Washers are required in Common Laundry Rooms at Multi-Family Residential and Common Interest Development Sites, and it is assumed that they are used by the tenants/occupants. Locating a High Efficiency Clothes Washer within an existing unit in a Multi-Family Dwelling does not increase Capacity.

8. ***Installation of a High Efficiency Clothes Washer within a Dwelling Unit constructed prior to January 1, 2022, on a Multi-Family Residential Site or Common Interest Development served by a Common Laundry Room does not increase Capacity.***

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

1. Methodology for Determining Water Use Capacity

The following process shall be used to determine if there is an increase in Water Use Capacity:

- a. The General Manager shall estimate Water Use Capacity of the proposed Project using the Water Use Factors from Table 2: Non-Residential Water Use Factors.

- (1) New Construction: When the Non-Residential Water Use Factor is based on a square-footage factor, the ~~entire~~ **gross** square-footage shall be applied to the factor for construction of a new building.
- (2) Tenant Improvements *within a defined lease space*: When the Non-Residential Water Use Factor is based on a square-footage for a Tenant Improvement, the **useable** square-footage shall be applied to the factor. ***This calculation does not affect the remaining Capacity of the building and is to be used only to identify the Capacity of the area being remodeled.***

Section Seven: **Amendments to Rule 25.5**

Rule 25.5-G-6 shall be added as shown below, with added language as shown in ***bold italic*** type face. The relocation of an associated use is generally not sustainable and results in increases in traffic, greenhouse gas emissions, etc.

6. ***No Water Use Credit or reduced Water Use Capacity shall be granted for the removal of a Non-Residential associated use to an out of District location or to another Water Distribution System. For example: No reduction in Water Use Capacity or Water Use Credit shall be granted for laundering hotel textiles at another location.***

Section Eight: **Deletion of Rule 91, Short Term Variance**

Rule 91 shall be deleted in its entirety as it is obsolete. Rule 91 was adopted by Ordinance No. 5 and amended by Ordinance No. 6 in 1981. The District’s Water Permit process has been completely revised since then, and there is no circumstance where Rule 91 would apply.

Section Nine: **Amendments to Rule 141**

1. Rule 141-A shall be amended by deleting the following footnote to the word “purchase” as shown in ~~striketrough~~. High Efficiency Clothes Washers have been required in all Common Laundry Rooms since 2014, and the rebate program is to available only for voluntary retrofits.

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.

~~+Rebates are available for High Efficiency Clothes Washers in Common Laundry Rooms that are leased under a contract with a vendor.~~

2. Rule 141-C-3 shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face to facilitate the continued water savings associated with these appliances as they are replaced.
 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 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 ***and High Efficiency Dishwashers and Ultra-High Efficiency Toilets replaced after ten 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.
3. Rule 141-D-10 (Conditions of Approval) shall be added as shown below, with added language as shown in ***bold italic*** type face. The rebate for Smart Flowmeters will be considered in Resolution 2021-16 to be considered at the December 20, 2021.

10. Rebates for Smart Flowmeters. Qualifying Devices shall meet the following requirements:

- a. Eligible Smart Flowmeters shall measure total water usage at least hourly and report water usage on a web portal or smartphone application.***
- b. Limit of one Smart Flowmeter rebate per User on a Parcel.***
- c. An Applicant for a Smart Flowmeter shall obtain authorization from the Water Distribution System Operator when a flowmeter is attached to the Water Meter.***
- d. The Smart Flowmeter shall be designed for at least two years of continuous operation.***

- e. *Property owner shall agree to keep the flowmeter installed and operational for a minimum of two years.*
- f. *Applicant shall submit a photograph of the installed Smart Flowmeter with the Rebate application.*

Section Ten: Amendment to Regulation XV Title

The title to Regulation XV shall be amended to delete the year 2016.

Section Eleven: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of Rules 11, 21, 23, 24, 25.5, and 141. This ordinance also deletes Rule 91 (Short Term Variance) and amends the title of Regulation XV to delete reference to the year it was adopted.

Section Twelve: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. on January 1, 2022, and shall not have a sunset date.

Section Thirteen: Severability

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

On motion by Director _____, and second by Director _____, the foregoing ordinance is adopted upon this ____ day of _____, 2021, 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 _____, 2021.

Witness my hand and seal of the Board of Directors this _____ day of _____ 2021.

David J. Stoldt, Secretary to the Board

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