



Adopted by the Board on May 20, 2019 – Effective on June 19, 2019

ORDINANCE NO. 182

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RULES 11, 20, 21, 22, 23, 23.8, 24, 25, 25.5, 33, 141, 142, 161, AND 180**

FINDINGS

1. The Monterey Peninsula Water Management District is a special act District formed by the California Legislature authorized and operating in accord with the Statutes of 1977, Chapter 527.
2. 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.
3. 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.
4. 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.
5. The Monterey Peninsula Water Management District has lawfully enacted ordinances to regulate the limited water supplies available to the Monterey Peninsula. This extensive management regime is specifically authorized by state law, and has been validated by both the California Supreme Court and the Court of Appeal. The regulatory and enforcement actions of the Monterey Peninsula Water Management District have been recognized with

approval by both the California Public Utilities Commission and the State Water Resources Control Board.

6. Rule 11 (Definitions) is amended to clarify the definition of “User.” “Municipal Unit” and “Municipal Unit Allotments” definitions are deleted as these definitions are obsolete. New definitions are proposed for “District Reserve Allocation,” “Intertie,” and “Manufactured Home” and “Mobile Home.” The latter two definitions relate to clarifications pertaining to permits and conservation requirements.
7. This ordinance eliminates unnecessary language in Rule 20-B (Permits to Connect to or Modify a Connection to a Water Distribution System) and adds Manufactured Homes to the list of structures subject to the Water Permit requirements.
8. Rule 21 (Applications) is amended to clarify the language in Rule 21-B-1.
9. Rule 22 (Action on Application for Permit to Create/Establish or Amend a Water Distribution System or Request a Confirmation of Exemption) has been clarified with respect to Interties and their connection to the Main California American Water System.
10. Rule 23 (Action on Application for a Water Permit to Connect to or Modify a Connection to an Existing Water Distribution System) has been clarified to indicate that condominiums and Common Interest Developments are included under the Multi-Family Dwelling sub-metering provision consistent with the definition in Rule 11. Use of an Entitlement has been added. A recommended location for a sub-meter is added to facilitate future Connections to the California American Company WDS as required by Rule 23-A-1-i-(4), as well as the required location for the split of the fire and domestic water lines in the meter box.
11. The D.B.O. Development No. 30 Water Entitlement (Rule 23.8) was revised to clarify that the Benefited Properties are those that overlie the Seaside Groundwater Basin and are supplied by California American Water’s WDS from the Seaside Groundwater Basin. The Monterey County Superior Court, the Seaside Groundwater Basin Watermaster, and the Sixth District Court of Appeal authorized this right.
12. Rule 24 has several amendments. Rule 24-A-3-k has been revised to clarify deed restrictions for second Bathroom additions. Residential and Non-Residential calculations of Water Use Capacity (Rule 24-A and 24-B) have been modified to resolve conflicts with Rule 142.1 (Water Efficient Landscape Requirements). Outdoor water use language proposed for deletion pre-dates the adoption of Rule 142.1. Permanent reductions in use

caused by the installation of proven water saving technology (e.g. ozone, Recycled Water, etc.) in Non-Residential uses will result in a reduction in the Estimated Annual Water Use Capacity of a project. These projects are classified as Group IV uses in Rule 24, Table 2, consistent with how Residential technology is addressed.

13. Rule 25 (Cancellation, Expiration, Suspension, Abandonment and Revocation of Water Permits) was revised to separate Water Distribution System Permit actions from Water Permit actions, and to address the expiration of hydrant meter permits consistent with current practices.
 1. Rule 25.5 (Water Use Credits and On Site Water Credits) would change the title to reflect current definitions. Amendments would eliminate the extension period for a Water Use Credit. Water Use Credits are extended for the full ten-year period, making the current codified process pointless and unnecessary. Use of (and expiration of) Water Use Credits are tracked in the Water Permit database, and verification occurs when a final inspection is conducted at the completion of a project. If the project is non-compliant at the final inspection, removal of unpermitted fixtures or amendment of the Water Permit is required.
14. This ordinance adds a description of the District Reserve Allocation to Rule 33.
15. Minor clarifying language is added to Rule 141 (Rebates).
16. Rule 142 is amended to clarify that all Sites supplied with water from a Water Distribution System regulated by the District must comply with the District's water efficiency standards, including Manufactured Homes.
17. Property managers and owners of rental property are required to provide their tenants with information about conservation requirements and Non-Essential Water Use. This requirement was unintentionally left out of Rule 161, General Provisions of the 2016 Water Conservation and Rationing Plan.
18. The language in Rule 180, Disclosure of Agents (ex parte communications), was revised for clarity.
19. This Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance,

restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the 2019-1 Rules and Regulations Amendment Ordinance.

Section Two: Purpose

This ordinance amends and clarifies Rules related to definitions, Water Distribution Systems and Water Permits, D.B.O. Development No. 30 Water Entitlement, Water Efficiency Standards and the 2016 Water Conservation and Rationing Plan, and ex parte communications.

Section Three: Amendments to Rule 11 – Definitions

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

1. DISTRICT RESERVE ALLOCATION – *“District Reserve Allocation” shall mean a quantity of water held for use at the discretion of the District.*
2. *INTERTIE* – *“Intertie” shall mean an interconnection permitting passage of utility service (e.g., water) between two or more systems.*
3. ~~MUNICIPAL UNIT~~ – ~~“Municipal Unit” means the Cities of Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City and Seaside and the portion of the County of Monterey inside the District.~~
4. ~~MUNICIPAL UNIT ALLOTMENTS~~ – ~~“Municipal Unit Allotment” means the maximum quantity of water that can be delivered by a particular Water Distribution System within a Municipal Unit in one water year beyond which Permits for Creation or Establishment and Permits for Expansion of a Water Distribution System are not authorized for approval in that Municipal Unit.~~
5. *MANUFACTURED HOME* – *“Manufactured Home” shall mean a large trailer or transportable prefabricated structure that is situated in one particular place and used as*

a permanent living accommodation. Mobile Home shall have the same meaning as “Manufactured Home.”

6. ***MOBILE HOME*** – “*Mobile Home*” shall mean a large trailer or transportable prefabricated structure that is situated in one particular place and used as a permanent living accommodation. Mobile Home shall have the same meaning as “*Manufactured Home.*”
7. USER - “User” shall means a customer or consumer of water delivered by a Water Distribution System. User does not include any Owner or Operator of a Water Distribution System. Each ~~residence~~***Dwelling Unit, each Non-Residential enterprise, and each Dedicated Irrigation Meter*** ~~commercial enterprise, or industrial enterprise~~ shall be deemed a separate and distinct User.

Section Four: Amendment to Rule 20-B, Permits to Connect to or Modify a Connection to a Water Distribution System

- A. Rule 20-B and Rule 20-B-1 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

Before any Person connects to or modifies a ~~water use~~ Connection to a Water Distribution System regulated by the District ~~or to any Mobile Water Distribution System regulated by the District or to any Mobile Water Distribution System~~, such Person shall obtain a written permit from the District ~~or the District’s delegated agent~~, as described in District Rules 21, 23 and 24. The addition of any Connection and/or modification of an existing water Connection to any Water Distribution System ~~permitted and~~ regulated by the District shall require a Water Permit.

~~The following actions require a~~ ***A Water Permit is required before taking the following actions:***

1. Any ***installation of or*** change in use, size, ***or*** location, ~~or relocation~~ of a Connection or Water Measuring Device which may allow an Intensification of Use or increased water consumption.
- B. Rule 20-B-9 shall be added to Rule 20 as shown below, with added language shown in ***bold italic*** typeface.
 9. ***Manufactured Homes shall be subject to all Water Permit requirements.***

Section Five: Amendments to Rule 21 – Applications

Rule 21-B-1 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

1. ***The authorized official of the applicable Jurisdiction shall sign a Water Release Form pertaining to the Site on which the water use shall occur.*** ~~A Water Release Form pertaining to the Site on which the water use shall occur shall be signed by the authorized official of the applicable Jurisdiction.~~ When the completed Project has fewer fixture units than the number permitted (Residential Water Permits), or has a smaller Water Use Capacity than permitted (Non-Residential Water Permits), the Applicant shall not be required to secure the signature of the authorized official of the applicable Jurisdiction on the Water Release Form ~~to amend the Water Permit.~~ It shall be the responsibility of the Jurisdiction to complete ~~any applicable Environmental Review~~ ***all discretionary approvals*** on a Project prior to authorizing a Water Permit release via the Water Release Form.

Section Six: Amendments to Rule 22 – Action on Application for Permit to Create/Establish or Amend a Water Distribution System, or Request a Confirmation of Exemption

Rule 22-A-4 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

Protocol for Level 1 Permit (Non-MPWRS)

The General Manager shall review the application package in the form and manner prescribed in Rules 21 and 22. If the application is determined to be complete, and all criteria specified in Rule 22-A-2 and the Implementation Guidelines are met, the General Manager shall issue a Level 1 Permit that specifies terms and conditions that are consistent with Rule 22. The Level 1 Permit does not set System Limits. However, a mandatory condition of approval shall state, “There shall be no permanent ~~intertie~~ ***Intertie*** to any other water system that is required to reduce water use,~~;~~ ~~and~~ ~~–~~ ***There shall be no new Intertie*** ~~intertie~~ to the ***Main*** California American Water ~~Systems~~ ~~system that relies on Cal-Am water rights,~~ including ***for*** a temporary emergency ***use***, until there is full compliance with SWRCB Order WR 95-10 (as amended), compliance with the Seaside Groundwater Basin Adjudication Final Decision of 2006 (as amended), and water is available in the respective Jurisdiction’s Allocation for release to the Parcel(s).” ~~District action is discretionary, and~~

the application is subject to ~~California Environmental Quality Act (CEQA)~~ review unless the Project qualifies for a CEQA categorical exemption (CEQA Guidelines Article 19). **Unless the proposed Project qualifies for a CEQA categorical exemption, Level 1 Permits are a discretionary action subject to requirements of the Permit Streamlining Act.** Notice of the staff action shall be provided to the public via the “Appealable Decisions” section of the District website. The staff determination may be appealed to the MPWMD Board pursuant to Rule 70, “Appeals.”

Section Seven: Amendments to Rule 23 – Action on Application for a Water Permit to Connect to or Modify a Connection to an Existing Water Distribution System

1. Rule 23-A-1-i-(4) shall be amended as shown below, with added language shown in **italic** typeface.

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;
2. All Rule 23-B-2-c shall be amended as shown below, with added language shown in **italic** typeface, and deleted language shown in ~~strikeout~~ typeface.
 - c. All New Structures receiving a Water Permit after January 1, 2009, shall have separate water supply lines that tee off **in the meter box** after the Water Meter to

supply fire suppression service and domestic service as demonstrated in Figure 23-1, unless the User has separate Water Meters maintained by the Water Distribution System Operator for fire and domestic services. This configuration shall facilitate installation of a Flow Restrictor in the domestic service without interfering with the fire suppression service. The General Manager shall have authority to make exceptions to this requirement for Undue Hardship. Exceptions shall be recorded on the property title with notice that rationing enforcement could result in a Flow Restrictor.

Section Eight: Amendment to Rule 23.8 – D.B.O. Development No. 30 Water Entitlement

Rule 23.8-A-2 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

2. Benefited Properties of the D.B.O. Development No. 30 Water Entitlement shall mean all properties ***in the California-American Water Company Water Distribution System that are located over, and supplied from, the Seaside Groundwater Basin*** that are supplied with water from the Seaside Groundwater Basin and that are located within the California American Water Company Water Distribution System.

Section Nine: Amendments to Rule 24-A – Residential Calculation of Water Use Capacity

1. Rule 24-A-3-k (Second Bathroom Addition) shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

- k. ***All Water Permits issued pursuant to this Rule shall include a Notice and Deed Restriction titled “Provide Public Access to Water Use Data” pursuant to Rule 23. In addition, permits utilizing the second Bathroom protocol shall authorize access to water records for the sixty (60) months prior to the date the Water Permit is issued. There shall be no additional charge for this deed restriction.*** As a condition to the issuance of any Permit pursuant to this rule, each property owner shall authorize the District to access and use water records related to the past, present and future use of water on the Site for a period of sixty (60) months prior to and following the date the Permit is issued.

2. Rule 24-A-5 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface. Existing language is contradictory to Regulation XIV, Rule 142.1, Water Efficient Landscape Requirements.

5. Exterior Residential Water Demand Calculations

- a. ~~Sites not required to prepare a Landscape plan by either the Jurisdiction or the District. For all new Connections on Sites not required to prepare a Landscape plan by either the Jurisdiction or the District, the Exterior Water Demand Calculation shall be 50 percent of the interior fixture unit value.~~
- ab. ***Exterior water demand shall be calculated according to Rule 142.1. Sites required to prepare a Landscape plan by either the Jurisdiction or the District. For all new Connections on Sites required to prepare a landscaping plan by either the Jurisdiction or the District, the Exterior Water Demand Calculation shall be the Estimated Total Water Use plus 0.01 Acre-Foot. Any modification to the Landscaping that results in an Intensification of Use shall require a *new* Water Permit.***
- e. ~~Sites with Jurisdiction Landscaping Restrictions. For all new Connections on Sites where native Landscaping is a requirement of and enforced by the Jurisdiction, the Exterior Water Demand Calculation shall be the Estimated Total Water Use plus 0.01 Acre Foot. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit. The native Landscaping requirement shall be a recorded covenant on the title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that any change of Landscaping may constitute an Intensification of Use which may result in collection of additional Capacity Fees and debits to a Jurisdiction's Allocation or Water Entitlement.~~
- bd. Sites utilizing rainwater storage as a component in an Irrigation System. For all new Connections on Sites where rainwater storage is included as a source of water supply for an Irrigation System, the Estimated Total Water Use as determined by the ~~L~~andscaping plan shall be reduced by the available Rainwater Harvesting Capacity. Any modification to the ~~L~~andscaping that results in an Intensification of Use shall require a Water Permit. An additional 0.01 Acre-Foot of water from the Water Distribution System shall be added for outdoor water uses other than irrigation.

Sites utilizing rainwater storage as a component in an Irrigation System shall have ~~L~~andscape water use restricted by a recorded covenant on the

title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that failure to maintain and utilize the rainwater storage component of the Irrigation System shall constitute an Intensification of Use which may result in collection of additional Capacity Fees and debits to a Jurisdiction's Allocation or Water Entitlement and/or other enforcement actions.

Section Ten: Amendments to Rule 24-B -- Non-Residential Calculation of Water Use Capacity

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

B. NON-RESIDENTIAL CALCULATION OF WATER USE CAPACITY

Non-Residential Water Use Capacity shall be calculated using Table 2: Non-Residential Water Use Factors. Each Non-Residential use shall be assigned a factor that when multiplied by a specified measurement shown on Table 2 (i.e., square-footage, number of rooms/seats, etc.) results in an estimate of the approximate annual Water Use Capacity in Acre-Feet. Non-Residential applications shall be reviewed to determine if there is an increase in water demand as a result of the proposed Project. Amendments to Table 2 shall be made by Resolution of the Board of Directors.

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 square-footage shall be applied to the factor for construction of a new building.

- (2) Tenant Improvements: When the Non-Residential Water Use Factor is based on a square-footage for a Tenant Improvement, the usable square-footage shall be applied to the factor.
- b. When a Non-Residential Project proposes two or more of the uses set forth in Table 2, each proposed use shall be subject to a separate calculation. By way of example, a ~~h~~*motel*~~with a~~ restaurant would be subject to both the ~~h~~*motel* use by unit and the restaurant use by seat calculation. ~~Similarly, a gas station with a retail facility would be subject to both the gas station use by pump and the retail use by square footage.~~ Where a proposed use ~~may~~ *can* be designated as *placed in* more than one *group* category, the *category group* which most accurately depicts *overall* projected water use shall be selected or the uses shall be calculated based on the square-footage or other factor for each area in which the use occurs. When the proposed use appears to fall into more than one *group or use* category, the higher *intensity use category factor* shall be *used*~~chosen~~.
- c. ~~For New Construction on Vacant Lots, the General Manager shall add the quantity of water determined to be the exterior water demand based on the ETWU to the total Estimated Annual Water Use Capacity determined in 24 B-2.~~
- cd. If the application includes a Non-Residential use that is not identical to or similar to those uses shown on Table 2: Non-Residential Water Use Factors, the General Manager shall research the projected annual consumption of the use and shall recommend a value to the Board that corresponds to the Estimated Annual Water Use Capacity.
- de. The General Manager shall compare the pre-Project Estimated Annual Water Use Capacity against the Estimated Annual Water Use Capacity shown on the Construction Plans submitted with the Water Release Form and Water Permit application. Pre-Project Estimated Annual Water Use Capacity may be verified by inspection.

- e. ***The General Manager may reduce the Estimated Annual Water Use Capacity for the permanent installation and use of known and validated technology that results in a quantifiable reduction in Water Use Capacity.***

- f. The General Manager shall reduce the Estimated Annual Water Use Capacity by any verified Water Use Credit or On-Site Water Credit applicable to the application as shown on the Water Release Form and Water Permit application and shall determine the Adjusted Water Use Capacity of the proposed project.

- g. Based upon the review conducted in 24-B-1-f, the General Manager shall determine if the Project will result in a positive, neutral or reduced Water Use Capacity on the Site.
 - (1) An increase in Capacity (Intensification of Use) shall cause the calculation and collection of a Capacity Fee prior to issuance of a Water Permit.

 - (2) No Capacity Fee shall be assessed when there is no increase in Water Use Capacity.

 - (3) A reduction in Water Use Capacity shall result in a Water Credit upon verification that the former use has been abandoned. This credit shall be established in conformance with Rule 25.5.

- h. Projects at Public School District Sites shall be considered to have a zero Adjusted Water Use Capacity when the entire Public School District Site meets or exceeds Rule 143 Water Efficiency Standards for Existing Non-Residential Uses.

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

shall require a new or amended Water Permit.

2. ***Exterior water demand shall be calculated according to Rule 142.1.***
~~Exterior Non-Residential Water Demand Calculations For all new Connections on Non-Residential and Mixed Use Sites, the Exterior Water Demand Calculation shall be the Estimated Total Water Use.~~

For all new Connections on Sites where rainwater storage is included as a source of water supply for an Irrigation System, the Estimated Total Water Use as determined by the *landscaping plan* shall be reduced by the available Rainwater Harvesting Capacity. Sites utilizing rainwater storage as a component in an Irrigation System shall have *landscape water use* restricted by a recorded covenant on the title of the property or other deed restriction enforceable by the District. The recorded covenant or deed restriction shall provide notice to each subsequent owner that failure to maintain and utilize the rainwater storage component of the Irrigation System shall constitute an Intensification of Use which may result in collection of additional Capacity Fees and debits to a Jurisdiction's Allocation or Water Entitlement and/or other enforcement actions. Any modification to the Landscaping that results in an Intensification of Use shall require a Water Permit.

3. Calculating Adjusted Water Use Capacity Water use calculations shall be rounded to the third decimal place.

Section Eleven: Amendments to Rule 25 – Cancellation, Expiration, Suspension, Abandonment and Revocation of Water Permits

Rule 25 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

Rule 25 – Cancellation, Expiration, Suspension, Abandonment and Revocation of Water Permits

- A. ~~All Water Distribution System~~ Permits issued pursuant to these regulations ***which that*** are not completed shall expire two (2) years after the date of issuance or upon expiration of the building permit ***associated with the Water Distribution System application. The Board may authorize longer expiration dates when approving the Water Distribution System, and the General Manager may approve an extension for good cause.***

B. *Water Permits for the use of fire hydrants for construction or other activities shall expire after sixty (60) days. Two ministerial extensions of 60 days each shall be allowed.*

C. *Water Permits that are not completed shall expire two (2) years after the date of issuance or upon expiration of the building permit. ~~Persons possessing a current and valid Water Release Form whose Water Permit has expired or has been canceled may re-apply for a new Water Permit.~~ A new Water Release Form will be required for all requests for renewal of a Water Permit. The District shall not reissue a Water Permit for any Site on which a violation of District **R**ules has not been corrected and verified.*

BD. The General Manager may Suspend processing a ~~Water Permit~~ *permit* application *or Suspend a permit issued pursuant to these Rules and Regulations* whenever the General Manager finds any of the following:

1. That any requirement or condition of the ~~Water Permit~~ *permit* is not being met.
2. That the property owner or permit Applicant has violated any provision of these Rules and Regulations.
3. That the property owner or permit Applicant has misrepresented intentionally or negligently any material fact in the ~~Water Permit~~ *permit* application or in any supporting documents.

CE. The District Board may Revoke any ~~Water Permit~~ *permit* issued pursuant to these Rules and Regulations whenever it finds any of the following:

1. That any requirement or condition of the ~~Water Permit~~ *permit* is not being met.
2. That the property owner or permit Applicant has violated any provision of these Rules and Regulations.
3. That the property owner or permit Applicant has misrepresented intentionally or negligently any material fact in the ~~Water Permit~~ *permit* application or in any supporting documents.

DF. Adjustment of Allocation or Water Entitlement for Expired, Suspended, Canceled, Abandoned or Revoked Permits

1. Any permitted water Capacity which is not used because of an abandoned, expired, Revoked, Suspended, or canceled Permit shall be returned to the applicable Allocation or Water Entitlement.
2. Any current Water Use Credit shall revert to the originating Site and shall remain available for use pursuant to Rule 25.5.

EG. Refunds shall be issued according to Rule 24-F, Capacity Fee Refunds.

2. Rule 24-B, Table 2, Non-Residential Water Use Factors shall be amended as shown on **Attachment 1**, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

Section Twelve: Amendments to Rule 25.5 – Water Use Credits and On Site Water Credits

Rule 25.5 shall be amended as shown below, with added language shown in ***bold italic*** typeface, and deleted language shown in ~~strikeout~~ typeface.

1. The title of Rule 25.5 shall be changed to “Water Use Credits and Water Credits”. Ordinance No. 177 (9/18/2017) deleted the definition of “On-Site”.
2. Rule 25.5-C shall be simplified as follows:

A Water Use Credit may be applied to and shall allow future water use on that Site at any time within a period of ***ten years***. ~~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~~ ***Subsequently***, any remaining unused Water Use Credit shall expire.

Section Thirteen: Amendments to Rule 33 – Jurisdictional and Reserve Water Allocations

Rule 33-B shall be amended as shown below, with added language shown in *bold italic* typeface, and deleted language shown in ~~strikeout~~ typeface.

B. DISTRICT RESERVE ALLOCATION.

The District Reserve Allocation shall refer to a quantity of water available for use at the District's discretion. The District Reserve Allocation can be augmented by dedications of water from a Water Entitlement, Water Use Credit, Water Credit, or a new Source of Supply.

Section Fourteen: Amendment to Rule 141 – Water Conservation Rebates

Rule 141-C-2 shall be amended as shown below, with added language shown in *bold italic* typeface, and

2. No Rebate shall be issued for installation of Qualifying Devices that are required to be installed and maintained by Regulation *II (Permits) or Regulation XIV (Water Conservation)* of the District with the exception of High Efficiency Toilets installed at Sites owned and operated by California Non-Profit Corporations. No Rebate shall be issued for installation of Qualifying Devices that were required to obtain a Water Permit. Rebates shall be available until the date the retrofit becomes mandatory, such as the date a Change of Ownership or Change of Use occurs or a Water Permit is issued unless modified by the Board of Directors. Rebates shall not be available for Qualifying Devices that have been required to be installed and maintained by local, State, or Federal water conservation programs.

Section Fifteen: Amendment to Rule 142 – Water Efficiency Standards

Rule 142-A shall be amended as shown below, with added language shown in *bold italic* typeface, and deleted language shown in ~~strikeout~~ typeface.

A. Water Efficiency Standards.

1. *All Sites supplied with water from a Water Distribution System regulated by the District shall comply with these standards.*

- 42. All New Construction of New Structures shall install and maintain plumbing fixtures and conservation standards as set forth in this Rule.
 - 23. No plumbing fixture shall be replaced with fixtures which allow greater water use.
 - 34. All new and replacement water fixtures shall comply with then-current California plumbing and energy standards/codes when more restrictive than the District's.
5. *Manufactured Homes shall be subject to these standards.*

Section Sixteen: Amendment to Rule 161 – General Provisions of the 2016 Water Conservation and Rationing Plan

Rule 161- shall be amended as shown below, with added language shown in *bold italic* typeface.

- L. *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.*

Section Seventeen: Amendment to Rule 180 – Disclosure of Agents

Rule 180 shall be amended as shown below, with added language shown in *bold italic* typeface, and deleted language shown in ~~strikeout~~ typeface.

RULE 180 - DISCLOSURE OF AGENTS

- A. Any Person who *has a quasi-judicial decision pending with the Board of Directors* ~~applies to the Water Management District for a permit that requires Board approval~~ shall provide the District with the names and addresses of all Persons who will be communicating with the District Directors on the Applicant's behalf or on behalf of the Applicant's business partners. That disclosure shall be provided to the District prior to any such communication. Failure to comply with this disclosure requirement shall subject the application to immediate denial of the permit.

- B. An Applicant whose permit is denied due to his or her failure to comply with paragraph A of this Rule may not apply to the Water Management District for approval of an identical or similar request for a period of twenty four (24) months from the date of the permit denial.

Section Eighteen: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Nineteen: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading.

This Ordinance shall not have a sunset date.

Section Twenty: Severability

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

On motion of Director Adams, and second by Director Byrne, the foregoing ordinance is adopted upon this 20th day of May 2019, by the following vote:

AYES: Directors Adams, Byrne, Edwards, Evans, Hoffmann and Riley


NAYS: None

ABSENT: Director Potter

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the 20th day of May, 2019.

Witness my hand and seal of the Board of Directors this 19th day of June,

_____.



David J. Stoldt, Secretary to the Board

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TABLE 2: NON-RESIDENTIAL WATER USE FACTORS**Group I** 0.00007 AF/SF

Users in this category are low water uses where water is primarily used for employee hygiene and minimal janitorial uses. Examples are offices, warehouses, and low water use retail businesses.

Group II 0.0002 AF/SF

Users in this category prepare and/or sell food/beverages that are primarily provided to customers in/on disposable tableware. Food with high moisture content and liquid food may be served on reusable tableware. Glassware may be used to serve beverages. Users in this category are not full-service restaurants.

Group III

Assisted Living (more than 6 beds) ²	0.085 AF/Bed
Bar (limited food/not a full-service restaurant)	0.0002 AF/SF ¹
Beauty Shop/Dog Grooming	0.0567 AF/Station
Child/Dependent Adult Day Care	0.0072 AF/Person
Dry Cleaner w/on-Site laundry	0.0002 AF/SF
Dormitory ³	0.040 AF/Room 0.02 AF/Bed
Laundromat	0.2 AF/Machine
Motel/Hotel/Bed & Breakfast	0.1 AF/Room
w/Large Bathtub (Add to room factor)	0.03 AF/Tub
w/Each additional Showerhead beyond one (Add to room factor)	0.02 AF/Showerhead
Nail Salon	0.00007 AF/SF
Irrigated Areas/Landscaping	ETWU (See Rule 142.1)
Plant Nursery	0.00009 AF/SF Land Area
Public Toilet	0.058 AF/Toilet
Public Urinal	0.036 AF/Urinal
Zero Water Consumption Urinal	No Value
Recreational Vehicle Water Hookup	0.1 AF
Restaurant - Full Service (including associated Bar Seats)	0.02 AF/Interior Restaurant Seat
Exterior Restaurant Seats above the "Standard Exterior Seat Allowance" ⁴	0.01 AF/Exterior Restaurant Seat
Exterior Restaurant Seats within the "Standard Exterior Seat Allowance"	No Value
Restaurant (24-Hour and Fast Food)	0.038 AF/Interior Restaurant Seat
School or Church	0.00007 AF/SF
Self-Storage	0.0008 AF/Storage Unit
Skilled Nursing/Alzheimer's Care	0.12 AF/Bed
Spa	0.05 AF/Spa
Swimming Pool	0.02 AF/100 SF of Surface Area
Theater	0.0012 AF/Seat

Group IV - MODIFIED NON-RESIDENTIAL USES

Users in this category have reduced water Capacity from the types of uses listed in Groups I-V and have received a Water Use Credit for modifications (Rule 25.5-F-4-d) *or permanent installation of known and validated technology that results in a quantifiable reduction in Water Use Capacity*. Please inquire for specific property information.

Group V - INDUSTRIAL USES

Users in this category use water during the production process for either creating their products or cooling equipment. Industrial water may also be used for fabricating, processing, washing, diluting, cooling, or transporting a product. Water is also used by industries producing chemical products and food products. Industrial uses also include certain hospital uses. Water Use Capacity shall be determined following review of the project's construction and business plans and estimated water use and may be considered for Rule 24 Special Circumstances.

Notes: Any Non-Residential water use which cannot be characterized by one of the use categories set forth in Table 2 shall be designated as "other" and assigned a factor which has a positive correlation to the anticipated Water Use Capacity for that Site. When a Non-Residential project proposes two or more of the uses set forth in Table 2, each proposed use shall be subject to a separate calculation. When the proposed use appears to fall into more than one group or use, the higher factor shall be used.

- ¹ ABC Licensed Premises Diagram area shall be used for calculation of *outdoor* square-footage.
- ² Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.
- ³ Dormitory water use at educational facilities is a Residential use, although the factor is shown on Table 2.
- ⁴ See Rule 24-B-1 and Rule 25.5 for information about the “Standard Exterior Seat Allowance”.