



Adopted by the Board on May 18, 2020 – Effective on May 19, 2020

ORDINANCE NO. 186

**AN URGENCY ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
TEMPORARILY SUSPENDING A PORTION OF RULE 24-B-1-i
PERTAINING TO EXTERIOR RESTAURANT SEATING
IN RESPONSE TO COVID-19 RE-OPENING PROCEDURES**

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. Upon reopening Restaurants for dining following the 2020 COVID-19 Shelter-in-Place Orders, health and safety will remain a top concern for consumers.
4. On May 12, 2020, California Governor Gavin Newsom announced the state’s long-awaited guidelines for the reopening of Restaurants for sit-down dining, including extensive guidelines for physical distancing.
5. Outdoor seating is to be prioritized over inside seating to minimize crossflow of customers in enclosed environments.
6. The Governor’s guidelines include removing tables and chairs from indoor dining areas so that six feet of physical distance can be maintained for customers and employees. If tables, chairs, booths, etc., cannot be moved, visual cues must be used to show that they are not available for use or Plexiglas or other types of impermeable physical barriers must be installed to minimize exposure between customers.

7. The guidelines also require discontinuing seating of customers where customers cannot maintain six feet of distance from employee work and food and drink preparation areas.
8. Jurisdictions are discussing ways to increase outdoor seating to facilitate social distancing, including shutting down streets, parking spaces and sidewalks to create open air dining areas.
9. MPWMD Rule 24 regulates the number of outdoor seats that a Restaurant can have before a Water Permit is required.
10. This ordinance suspends the standard exterior seat allowance for a period of one year to facilitate relocation of seating allowed indoors to the exterior with a factor of two new Exterior Restaurant Seats to removal of one Interior Restaurant Seat, in keeping with Finding 11 of Ordinance No. 164.
11. This ordinance requires Restaurants that increase Exterior Restaurant Seating above the standard exterior seat allowance to confirm that MPWMD has an Interior Restaurant Seat count on file.
12. This ordinance is adopted with urgency as the re-opening of Restaurants in the MPWMD is likely to occur before the normal ordinance process could take place, and Jurisdictions are currently discussing the process of re-opening.
13. This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Existing Facilities, as these amendments relate to permitting and alterations of existing facilities.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the 2020 COVID-19 Urgent Exterior Restaurant Seat Facilitation Ordinance of the Monterey Peninsula Water Management District.

Section Two: **Purpose**

This ordinance suspends Rule 24-B-1-i for Restaurants that remove Interior Restaurant Seats and increase Exterior Restaurant Seats as a response to the State of California’s May 12, 2020, guidelines for the reopening of Restaurants for sit-down dining to create social distancing.

Section Three: **Limited Suspension of Rule 24-B-1-i**

Rule 24-B-1-i states:

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

For the duration of this ordinance, a Water Permit shall not be required to increase the Exterior Restaurant Seats above the standard exterior seat allowance at Restaurants that have a seat count on file with the District. Restaurants with no seat count on file shall contact the District by email at conserve@mpwmd.net prior to increasing their Exterior Restaurant Seats above the standard exterior seat allowance. The increase of two Exterior Restaurant Seats above the standard exterior seat allowance shall require the reduction of one Interior Restaurant Seat.

Section Four: **Publication and Application**

The provisions of this ordinance shall not cause the republication of the Rules and Regulations of the Monterey Peninsula Water Management District.

Section Five: Effective Date and Sunset

This ordinance shall be adopted with urgency effect and take effect at 12:01 a.m. on May 19, 2020. Insofar as this Ordinance has been enacted as an urgency measure, it shall have no force or effect after May 19, 2021.

Section Six: 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 Evans, and second by Director Adams, the foregoing ordinance is adopted upon this 18th day of May 2020, by the following vote:

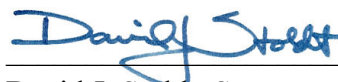
AYES: Directors Evans, Adams, Byrne, Edwards, Hoffmann, Potter and Riley

NAYS: None

ABSENT: None

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the 18th day of May 2020.

Witness my hand and seal of the Board of Directors this 22nd day of June 2020.



David J. Stoldt, Secretary to the Board