



***URGENCY ORDINANCE***  
***Adopted by the Board on August 21, 2023***  
***Effective on August 22, 2023***

**ORDINANCE NO. 193**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF  
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
CLARIFYING RULE 24, SECOND BATHROOM ADDITION PROTOCOL**

**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 continues to recognize the findings adopted in Ordinance No. 98, Ordinance No. 114, and Ordinance No. 185 that the addition of a second Bathroom in a Dwelling Unit is for convenience and has a de minimis increase in water use. Water fixtures using this protocol do not result in a debit to a Jurisdiction's Allocation or to an Entitlement.
5. This ordinance clarifies language that the second Bathroom protocol is intended for Residential Users in older homes to add a second Bathroom for convenience. This was the fundamental finding for the District's California Environmental Quality Act (CEQA) compliance.

6. This ordinance responds to situations where water fixtures in an existing second Bathroom were removed and used (as a Water Credit) to offset new water fixtures elsewhere on a Site (such as in an Accessory Dwelling Unit (ADU)). Without the proposed clarifications, the Rule 24 Second Bathroom Addition protocol could technically be used to reinstall a complete second Bathroom without accounting for the water Capacity of the fixtures offset by the Water Credit from the former Bathroom fixtures. Although the current language of the rule would permit the addition of water fixtures to create a second Bathroom, this action defies the California Environmental Quality Act (CEQA) finding that the addition of a second bathroom is for convenience only and has no impact on the use of water. Therefore, clarification to the rule is needed immediately.
7. 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.
8. This ordinance shall not amend the Rules and Regulations of the Water Management District.
9. This ordinance has been proposed for urgency enactment and shall take effect immediately upon a single reading provided it is approved by at least five (5) members of the Board.
10. This ordinance shall sunset one year following its enactment.

NOW THEREFORE be it ordained as follows:

## ORDINANCE

### Section One:        Short Title

This ordinance shall be known as the 2023 Second Bathroom Protocol Clarification Ordinance of the Monterey Peninsula Water Management District.

### Section Two:        Purpose

This ordinance is necessary to eliminate a loophole in the District's Rules that would allow a person to remove water fixtures in a second Bathroom to obtain a Water Credit to offset new water fixtures (including the potential to offset the Capacity of a new Dwelling Unit) and then to qualify to replace the second Bathroom fixtures using the Rule 24, Second Bathroom Addition protocol.

### Section Three:        Amendments to Rule 24, Second Bathroom Addition Protocol

Rule 24-A-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. The remaining provisions of Rule 24 shall remain unchanged by this ordinance.

#### 3.        Second Bathroom Addition

A distinctive Water Permit protocol shall apply to any Residential application that proposes to add a second Bathroom to a Dwelling Unit built before May 16, 2001, ~~that, prior to the application,~~ has less than two full Bathrooms ***and that has not removed water fixtures in a Bathroom to facilitate the addition of water fixtures elsewhere on the Site.***

- a.        The second Bathroom protocol shall be limited, and shall apply only to the following water appliances if they are installed in a second Bathroom as an expansion or remodel of an existing Dwelling Unit: (a) a single toilet, and (b) a single Standard Bathtub, or single Shower Stall, or a single standard tub-shower combination, and (c) one or two Washbasins.
- b.        The second Bathroom protocol shall further apply to ~~any~~ ***a*** Residential application that proposes to add one or more of the water fixtures referenced above to a second Bathroom which lacks that fixture(s) within a Dwelling Unit ~~that, prior to the application,~~ has less than two full Bathrooms.
- c.        The second Bathroom protocol shall apply only to a Dwelling Unit that has less than two full Bathrooms ***and that has not removed basic Bathroom***

*water fixtures (i.e., a toilet, a Standard Bathtub or Shower Stall or a Washbasin) to enable the addition of water fixtures elsewhere on the Site.*

- d. The second Bathroom protocol shall not apply to any Multi-Family Dwelling or Multi-Family Residential Site with four or more units.
- e. Water fixtures installed pursuant to this provision shall be installed within the Dwelling Unit. The second Bathroom protocol shall not be used to create a new Accessory Dwelling Unit. This includes the addition of a second Bathroom elsewhere in the Dwelling Unit that would allow the first Bathroom to be used by an Accessory Dwelling Unit *or junior Accessory Dwelling Unit*. The protocol was adopted to recognize that a second Bathroom is for convenience. It is not intended to support a new User.
- f. Under this second Bathroom protocol, the General Manager shall not debit the Jurisdiction's Allocation for the installation of the water fixtures in the second Bathroom.
- g. Capacity Fees shall nonetheless be collected for the addition of fixture units in the second Bathroom.
- h. No credit shall be granted for removal or retrofit of any fixture added pursuant to this second Bathroom protocol.
- i. Use of the second Bathroom protocol is voluntary. Any Dwelling Unit installing a second Bathroom pursuant to this provision shall be limited to two Bathrooms unless the second Bathroom is permitted by debit to a Jurisdiction's Allocation, an Entitlement, or offset by a credit. A Notice and Deed Restriction Regarding Limitation on Use of Water on a Property shall be recorded on the real property as a condition of the Water Permit.
- j. 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.~~

- k. The provisions of this second Bathroom protocol shall take precedence and supersede any contrary provision of the Water Management District Rules and Regulations.

**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 and take effect at 12:01 a.m. on August 22, 2023. Insofar as this Ordinance has been enacted as an urgency measure, it shall have no force or effect after August 21, 2024.

**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.

**PASSED AND ADOPTED** on this 21st day of August 2023 on motion by Director Eisenhart, and second by Director Oglesby, by the following vote, to wit:


AYES: Directors Riley, Eisenhart, Paull, Anderson, Oglesby and Adams

NAYS: None

ABSENT: Director Edwards

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is an ordinance adopted on 21st day of August 2023.

Dated: August 22, 2023

  
David J. Stoldt,  
Secretary to the Board

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