

EXHIBIT 2-A

**Preliminary Draft
ORDINANCE NO. 156**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RULE 24, TABLE 1: RESIDENTIAL FIXTURE UNIT COUNT AND
AMENDING RULE 25.5, TABLE 4: HIGH EFFICIENCY APPLIANCE CREDITS**

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, sets 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 shall lessen 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. The Monterey Peninsula Water Management District has determined that the water conservation and efficiency standards and requirements benefit the public good by increasing the supply of Potable water available for use and by reducing existing demand for Potable water. The reduction in demand will reduce production impacts upon the environment.
5. The Monterey Peninsula Water Management District approved a Rebate Program when it adopted the Action Plan for Water Supply Alternatives in February 1996. The Action Plan addressed the need for water supply projects to meet the water supply needs of the Monterey Peninsula following voter rejection of District financing for the New Los Padres Water Supply Project in November 1995.

6. California State Water Resource Control Board (SWRCB) Order No. WR 95-10, issued in July 1995, ruled that California American Water did not have a legal right to take approximately 69 percent of the water supplied to California American Water users at that time. The SWRCB has set specific goals to reduce water diversions from the Carmel River Basin.
7. Under SWRCB Order No. WR 95-10, California American Water was ordered to reduce its historical diversion from the Carmel River Basin by 20 percent beginning with Water Year 1997 and in each subsequent year. Further cutbacks were ordered beginning in 2010.
8. *California American Water v. City of Seaside, et al*, Case No. M66343, resulted in a decision which determined the initial Operating Safe Yield for the Seaside Basin is 5,600 Acre-Feet (Coastal Subarea is 4,611 Acre-Feet and 989 Acre-Feet for the Laguna Seca Subarea). “Operating Safe Yield” is the maximum amount of Groundwater resulting from Natural Replenishment which can be produced from each Subarea for a finite period of years as these terms are defined in the decision. Water conservation is a component to achieving Operating Safe Yield and will require reductions in use in the future.
9. A Cease and Desist Order (CDO) against California American Water was issued in October 2009 by the SWRCB as Order No. WR 2009-0060. The CDO prescribes a series of significant cutbacks to California American Water’s pumping from the Carmel River from 2010 through December 2016. Cal-Am customers may be subject to water Rationing, a moratorium on Water Permits for new construction and remodels, and fines if pumping limits are exceeded.

ADDITIONAL FINDINGS TO BE INSERTED PRIOR TO CONSIDERATION

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the **2013 Water Permit and Efficiency Programs Amendment Ordinance** of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose

The Monterey Peninsula Water Management District enacts this ordinance to.....

Section Three: Amendment of Rule 11, Definitions

Rule 11, Definitions, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

BENEFITED PROPERTY – “Benefited Property” shall mean those properties located in the unincorporated portion of the Del Monte Forest described on Exhibit “A” to Monterey Peninsula Water Management District Ordinance No. 109 ~~or~~ *and* Sand City Sites located within the jurisdictional limits of the City of Sand City *as recognized in* ~~pursuant to~~ Monterey Peninsula Water Management District Ordinance No. 132.

CHANGE OF USE - “Change of Use” means, ~~in the case of commercial, industrial or public authority structures,~~ a *Non-Residential* change *from one Group to another* ~~in the use to which the structure was previously devoted, to a substantially different use,~~ as uses are categorized by *in* Table No. 2 of Rule 24, *or a change from either Residential to Non-Residential or vice versa. Change of Use as defined by the District may not compare to a change in zoning or use as defined by the Jurisdiction.*

EXPANSION OF USE - “Expansion of Use” shall mean the addition of any water fixture and/or increase to existing floor area, *as well as any change to the character of a Non-Residential Use that results in an Intensification of Use.*

LANDSCAPE IRRIGATION AUDITOR – “Landscape Irrigation Auditor” shall mean a Person certified by the Irrigation Association *or the California Landscape Contractors Association* to perform Landscape Water Audits and ~~assign~~ *prepare* Landscape Water Budgets.

LANDSCAPE WATER AUDIT – “Landscape Water Audit” shall mean an action taken by a Landscape Irrigation Auditor ~~certified by the Irrigation Association~~ to determine reasonable outdoor water use.

LANDSCAPE WATER BUDGET – “Landscape Water Budget” shall mean a maximum annual water allowance in gallons per year, determined upon completion of a Landscape Water Audit by a Landscape Irrigation Auditor ~~certified by the Irrigation Association~~. The Landscape Water Budget shall take into consideration the types of plants, soil condition, Evapotranspiration rates and Irrigation System.

METER SPLIT – “Meter Split” shall mean the act of issuing one or more Water Permits that includes individual Water Measuring Devices for more than one Water User on a Site supplied by an existing Connection.

Section XX: Amendment of Rule 20, Permits Required

Rule 20, Permits Required, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

B. PERMITS TO CONNECT TO OR MODIFY A CONNECTION TO A WATER DISTRIBUTION SYSTEM

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, 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 Water Permit:

1. Any change in use, size, location, or relocation of a Connection or Water Measuring Device which may allow an Intensification of Use or increased water consumption.
2. Each use of an On-Site credit or Water Use Credit.
3. Any modification to, ~~or relocation~~ ***the number or type of;*** Residential water fixtures ***shown in Table 1, Residential Fixture Unit Count, with the exceptions of (1) replacement of a Standard Bathtub fixture with a Single Stall Shower fixture and vice versa, and (2) removal of a lawful water fixture. Documentation of a Water Credit pursuant to Rule 25.5 is highly recommended when a water fixture is removed.***

4. Any Landscaping changes resulting in an Intensification of Use when a Landscape plan has been reviewed and approved as a component of a Water Permit.
5. Any Change of Use and any expansion of a Non-Residential use to a more intensive use as shown on Table 2 (Rule 24), except when the Change of Use or expansion modifies (1) an unenclosed structure that has no plumbing; or (2) a temporary structure (i.e., a structure without permanent occupancy and without a permanent foundation and that has no plumbing).
6. ~~Installation~~ ***ing of*** new water fixtures ***in a Residential use. Replacement of an*** (i.e., ~~other than replacing existing water fixtures~~) ~~in a Residential use or substituting a Standard Bathtub for a Single Stall Shower (or vice versa) does not require a Water Permit.~~
7. Use of water from a Mobile Water Distribution System.

Section XX: Amendment of Rule 23-A-i, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System

Rule 23-A-i, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

- i. The General Manager shall not issue a Water Permit which results in ~~the installation of a new~~ water meter that serves water to more than one User ***when there are substantial structural modifications and/or new plumbing installed.*** Multiple Users shall apply for separate Water Permits pursuant to this rule. This provision, however, shall not prevent the issuance of a Water Permit which allows a single User to extend incidental water use (e.g. to a single Bar Sink) ***to another as the result of.*** ~~This provision shall be construed to enable the issuance of a Water Permit required by reason of a change in occupancy or use. of an Existing Non-Residential Structure without a requirement to install separate water meters for each separate use or User, provided no substantial structural modifications are necessary to facilitate the changed use.~~ Any such application shall nonetheless be processed in accord with Rule 24 (Calculation of Water Use Capacity and Connection Charges).

Section XX: Amendment of Rule 23-B-1-e, Mandatory Conditions, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution

System

Rule 23-B-1-e, Mandatory Conditions, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

- e. All Water Permits ~~requiring deed restrictions~~ shall also include a Notice and Deed Restriction titled “Provide Public Access to Water Use Data.”

Section XX: Amendment of Rule 23-B-2-c, Mandatory Conditions, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System

Rule 23-B-2-c, Mandatory Conditions, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

- 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. This configurations shall facilitate installation of a Flow Restrictor in the domestic service without interfering with the fire suppression service.

Section XX: Amendment of Rule 24, Table 1: Residential Fixture Unit Count

Rule 24, Table 1, Residential Fixture Unit Count, shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

	Water Fixture Description	Fixture Unit Value
1	Washbasin (lavatory sink), each	1
2	Two Washbasins in the Master Bathroom	1
3	Toilet, Ultra Low Flush (1.6 gallons per flush)	1.8
34	Toilet, High Efficiency (HET) (1.3 gallons maximum)	1.3
45	Toilet, Ultra High Efficiency (UHET) (0.8 gallon maximum)	0.8
56	Urinal, High Efficiency (0.5 gallon-per-flush)	0.5
67	Urinal, Zero Water Consumption	0
78	Bathtub, (may be Large with Showerhead above) & Separate Shower in the Master Bathroom	3
89	Bathtub, Large (may have Showerhead above)	3
910	Bathtub, Standard (may have Showerhead above) <i>or Shower, Separate Stall (one Showerhead)</i>	2
40	Shower, Separate Stall (one Showerhead)	2
11	Shower, each additional fixture (including additional Showerheads, Body Spray Nozzles, etc.)	2
12	Shower System, Rain Bars, or Custom Shower (varies according to specifications)	2
13	Kitchen Sink (including optional adjacent Dishwasher)	2

14	Kitchen Sink with adjacent High Efficiency Dishwasher (5.8 gallons maximum per cycle)	1.5
15	Dishwasher, each additional (including optional adjacent sink)	2
16	Dishwasher, High Efficiency, each additional (including optional adjacent sink) [5.8 gallons maximum per cycle]	1.5
17	Laundry Sink/Utility Sink (debit/Connection Charge applies to only one Laundry/Utility Sink per Residential Site)	2
18	Clothes Washer	2
19	Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	1
20	Bidet	2
21	Bar Sink	1
22	Entertainment Sink	1
23	Vegetable Sink	1
24	Swimming Pool (each 100 square-feet of pool surface area)	1
25	For all new Connections -- Refer to Rule 24-A-5, Exterior Residential Water Demand Calculations.	

Section XX: Amendment of Rule 24, Table 3: Connection Charge History

Rule 24, Table 3, Connection Charge History, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

Section XX: Amendment of Rule 24, Table 3: Connection Charge History

Rule 24, Table 3, Connection Charge History, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

TABLE 3: CONNECTION CHARGE HISTORY
YEAR CONNECTION CHARGE

1985	\$10,623.20
1985-86	\$11,133.00
1986-87	\$11,433.59
1987-88	\$11,890.93
1988-89	\$12,295.22
1989-90	\$12,983.75
1990-91	\$13,529.07
1991-92	\$14,056.70
1992-93	\$14,661.00
1993-94	\$15,202.00
1994-95	\$15,325.00
1995-96	\$15,692.00
1996-97	\$15,960.00
1997-98	\$16,551.00

1998-99	\$17,048.00
1999-2000	\$17,832.00
2000-01	\$18,492.00
2001-02	\$19,565.00
2002-03	\$19,976.00
2003-04	\$20,415.00
2004-05	\$20,517.00
2005-06	\$20,948.00
2006-07	\$21,618.00
2007-08	\$22,331.00
2008-09	\$22,979.00
2009-10	\$23,163.00
2010-11	\$23,567.00
<i>2011-12</i>	<i>\$24,227.00</i>
<i>2012-13</i>	<i>\$24,735.00</i>

Section XX: Amendment of Rule 25.5-G-2, Water Use Credits and On-Site Water Use Credits

Rule 25.5-G-2, Water Use Credits and On-Site Water Credits, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

2. Use of a documented ***Residential*** Water Use Credit ***that originates from Table 4, High Efficiency Appliance Credits, or that originates from a Non-Residential Water Use Credit resulting from installation of Ultra Low Consumption Technology*** to offset an Expansion of Use shall cause recordation of a Notice and Deed Restriction Regarding Limitation on Use of Water on a property. ***There shall be an exception to this requirement when the credit originates from installation of High Efficiency Toilets.***

Section XX: Amendment of Rule 25.5, Table 4: High Efficiency Appliance Credits

- A. Rule 25.5, Table 4, High Efficiency Appliance Credits, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~).

TABLE 4: HIGH EFFICIENCY APPLIANCE CREDITS

Appliance	Description	Water Use Credit in Acre-Feet
High Efficiency Toilets (available until 12/31/2013)	A toilet designed to have an average maximum flush of 1.3 gallons.	0.004 0.005 AFA
Ultra High Efficiency Toilet	A toilet designed and manufactured to flush with a maximum of 0.8 gallon of water and that is labeled by the U.S. Environmental Protection Agency’s WaterSense program.	0.010 AFA
Instant-Access Hot Water System	A recirculating hot water system or other device(s) that results in hot water contact at every point of access throughout the Dwelling Unit within ten (10) seconds. Instant-Access Hot Water Systems shall be installed in each auxiliary building plumbed with hot water on a Single Family Residential Site. There shall be no Water Use Credit for installation of Instant-Access Hot Water Systems for New Structures.	0.005 AFA
High Efficiency Dishwasher	A dishwasher designed to use a maximum of 5.8 gallons per cycle. A High Efficiency Dishwasher shall have Energy Star certification.	0.005 AFA
High Efficiency Clothes Washer	A Clothes Washer with a Water Factor of 5.0 or less.	0.010 AFA

Section XX: Amendment of Rule 25.5-D-1 and Rule 25.5-F-2, Water Use Credits and On-Site Water Use Credits

Rule 25.5-D-1 and Rule 25.5-F-2, shall be amended to require a minimum of eight years of water records.

Section XX: Amendment of Rule 141, Rebates

A. The following Rebate shall be added to Rule 141:

- Toilet Flapper: \$15

B. The Rebate for replacement of an Ultra Low Flush Toilet with a High Efficiency Toilet shall be \$50.

C. Rule 141-C-6-a shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

6. Outdoor Water Use Rebates.

- a. Rebates for Cisterns shall be limited to 25,000 gallons of storage capacity on a Qualifying Property. All Cistern Rebate Sites shall have sufficient roof area to fill the capacity of the Cistern(s) after first flush during a “normal” Water Year and ~~shall~~ *may* require verification of usable roof area by Site inspection.

D. Rule 141-F-2 shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

2. Lawn removal Rebate application process.

- a. Prequalification: Applicants must complete and submit a Lawn Rebate Application form that includes the following documents:
 - (1) Water records (either copies of bills or a printout from the Water Distribution System) for the two most recent years;
 - (2) A drawn Site plan showing a detailed description (including measured areas) of the Lawn replacement project, including square-footage of Lawn to be removed, names and numbers of plants or other surfaces to be installed, and the irrigation plan.
 - (3) Two to three current photographs of the Lawn to be removed. A minimum of 250 square-feet of Lawn shall be removed to qualify for Rebate.
- b. The Lawn Rebate Application shall be reviewed for completeness, ~~and when removal of the Lawn will result in documentable water savings,~~ ~~the~~ Applicant ~~shall~~ *may* be contacted to arrange a Site inspection to verify the Lawn.
- c. ~~Following a Site inspection~~ *When a determination has been made that removal of Lawn will result in permanent and quantifiable water savings,* and when present funding is available in an amount sufficient to fund a Rebate for the Lawn removal, the District shall issue a Lawn Rebate prequalification letter. The Applicant shall have 120 days from the date of the prequalification

letter to complete the project and submit receipts, arrange for a final inspection by the District, and successfully record deed restrictions. Applications not completed within 120 days of the date of the prequalification letter shall be denied.

- d. Rebates shall be subject to availability of funding.

Section XX: Amendment of Rule 172 Landscape Water Audits

Rule 172, Landscape Water Audits, Sections A through B-5-a, shall be amended as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~). The remainder of the Rule shall remain unchanged.

RULE 172 - LANDSCAPE WATER AUDITS

- A. Landscape Water Audits shall be conducted under the supervision of ***a Landscape Irrigation Auditor*** ~~an individual who has been certified by the Irrigation Association to conduct audits and establish Landscape Water Budgets~~. Each audit shall be signed by that Person, who shall attest that the audit was performed under his/her direction.

- B. Landscape Water Audits and Landscape Water Budgets shall be offered by the District and/or California American Water or their agent free of charge to all Water Users of California American Water with Dedicated Irrigation Meters, large irrigated areas over three acres, irrigated Open Space, and Large Residential Water Users. Landscape Water Budgets shall be required for new Dedicated Irrigation Meters and shall be based on a Water Budget determined by the Estimated Total Water Use as determined by a Landscape and Irrigation System plan at the time the meter is installed. California American Water shall review its Residential customer consumption records at the completion of every Water Year to identify all Residential Users that consumed an average of 320 units per month (24,000 gallons) during the prior Water Year. California American Water shall identify the Users that require a Landscape Water Audit and Landscape Water Budget and that do not have a Water Budget on file at MPWMD and California American Water. Newly identified Users shall be notified by California American Water that they are required to obtain a Landscape Water Audit and Landscape Water Budget. Once notified of the requirement to obtain a Landscape Water Audit and Landscape Water Budget, a User must arrange to complete the audit process within sixty (60) days. Existing customers subject to this Rule shall be given annual notice by California American Water to report any changes to the

Landscaping or Irrigation Systems. Significant changes shall necessitate a follow-up audit.

1. California American Water Users shall be required to obtain Landscape Water Audits and establish Landscape Water Budgets if the property:
 - a. Has a Dedicated Irrigation Meter; or
 - b. Is an irrigated area of greater than three acres; or
 - c. Is a Large Residential Water User; or
 - d. Is irrigated public Open Space.
2. All Landscape Water Budgets must be prepared by *a Landscape Irrigation Auditor* ~~an individual certified by the Irrigation Association.~~
3. All Water Users required to complete a Landscape Water Audit and establish a Landscape Water Budget shall have the option of obtaining a Landscape Water Audit and Landscape Water Budget from a Landscape Irrigation Auditor of their choice at their own expense ~~if the auditor is certified by the Irrigation Association.~~
4. Landscape Water Audits and Landscape Water Budgets not conducted and prepared by the District and/or California American Water shall be completed as specified in this Rule. Completed Landscape Water Budgets and Landscape Water Audits shall be submitted to California American Water. California American Water shall forward a copy of all completed Landscape Water Audits and Budgets to the District within ten (10) days of receipt ~~by California American Water.~~ Landscape Water Audits not performed by the District or California American Water are subject to review and acceptance by the District. Landscape Water Audits and Landscape Water Budgets rejected by the District may be appealed to the Board of Directors pursuant to Rule 70 (Appeals).
5. Audit
 - a. An On-Site Landscape Irrigation Audit ~~shall be completed or overseen by a Certified Landscape Irrigation Auditor (CLIA) and~~ shall include evaluation and documentation of the following:
[The remainder of this Rule is not amended by this ordinance.]

Section XX: Publication and Application

The provisions of this ordinance shall cause the amendment and republication of Rules 11, 20, 23, 24, 25.5, 141 and 172 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section XX: Effective Date and Sunset

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

This Ordinance shall not have a sunset date.

Section XX: 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 _____, 2013, 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 _____, 2013.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2013.

David J. Stoldt, Secretary to the Board