

*Submitted at
July 19, 2010 Board Meeting
Item 20*

*Revised First Reading Draft
REVISIONS ARE SHOWN IN RED*

ORDINANCE NO. 144

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING THE REBATE PROGRAM AMOUNTS AND ADDING NEW REBATES FOR
GRAYWATER IRRIGATION SYSTEMS AND
COMMERCIAL/INDUSTRIAL/INSTITUTIONAL RETROFITS**

FINDINGS

1. The 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 Water Management District approved a toilet replacement 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.
4. 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.
5. 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.
6. 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.

7. The Rebate Program contributes to water savings throughout the MPWMD. It is estimated that as of April 30, 2010, the Rebate Program has resulted in savings of approximately 260 acre-feet per year.
8. California American Water is a co-sponsor of the Rebate Program. Funding for this program is made available through a water conservation surcharge approved by the California Public Utilities Commission (CPUC).
9. Retrofitting of properties located in the Monterey Peninsula Water Resource System benefits the Monterey Peninsula by reducing over-pumping of Groundwater that leads to environmental degradation.
10. Retrofitting of properties receiving water from the Seaside Groundwater Basin benefits the Monterey Peninsula by reducing over-pumping of Groundwater that leads to environmental degradation.
11. The Rebate Program supports the MPWMD's Mission to manage, augment and protect water resources for the benefit of the community and the environment.
12. The Rebate Program supports the District's legislative function to conserve water.
13. Funding for the Rebate program in the California American Water system is provided through a conservation surcharge approved by the CPUC.
14. Funding for Rebates is one component of a conservation plan and budget approved by the CPUC in 2009. The conservation goal is to save 400-800 acre-feet of water between 2009 and 2011.
15. Funding for the Rebate Program in other areas of the MPWMD is provided by MPWMD funds and may be augmented by other Water Distribution Systems.
16. This ordinance shall amend and republish District Rule 11, Definitions and District Rule 141, Water Conservation Rebates.
17. This ordinance adds the following definitions to Rules 11, Definitions: Common Laundry Room, Cooling Tower Conductivity/pH Controller, High Efficiency Connectionless Food Steamer, Graywater Irrigation System, Dry Vacuum Pump and Ultra High Efficiency Toilet.
18. This ordinance adds Rebates for Cooling Tower Conductivity/pH Controllers, Dry Vacuum Pumps, High Efficiency Connectionless Food Steamers, High Efficiency Commercial Dishwashers, Graywater Irrigation Systems, retrofits of medical steam sterilizers that utilize a continuous water flow with a water tempering device, and WaterSense labeled Ultra-High Efficiency Toilets.
19. This ordinance amends the Rebate amounts for Pint Urinals (from \$250 to \$300), Rotating Sprinkler Nozzles (from \$0.50 to \$4.00 with a minimum purchase of ten), Water Efficient Ice Machines (from \$450 to \$500), and X-ray film processor recirculation systems (from

\$2,000 to \$3,500).

20. This ordinance increases the Cistern storage capacity from 3,000 to 25,000 gallons with an added eligibility condition that the Site must have sufficient roof area to provide the runoff to fill the Cisterns during a normal Water Year.
21. This ordinance increases the maximum Lawn Rebate increases from 2,000 to 5,000 square-feet.
22. This ordinance increases the time for which an application can be submitted from 90 days to 120 days from the date of purchase of Qualifying Devices.
23. The proposed ordinance allows an exception to the maximum of twenty (20) toilets on Non-Residential Qualifying Properties for Qualifying Properties owned and operated by a California Non-Profit Corporation.
24. This ordinance shall have an effective date that is less than 30 days from second reading and adoption to facilitate necessary water saving retrofits to maintain compliance with regulatory restrictions.
25. The replacement of existing facilities is a categorical exemption under Class I, §15301 of the California Environmental Quality Act (CEQA). A Notice of Exemption has been filed in compliance with CEQA.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the **2010 Rebate Program Amendment Ordinance** of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose

The Monterey Peninsula Water Management District enacts this ordinance to expand the standards for the Rebate Program as set forth in Regulation XIV with the goal of providing an incentive to encourage water saving retrofits that might not otherwise occur and by incentivizing retrofits prior to mandatory deadlines. Participation in the Rebate Program is voluntary. The Rebates offered by this program are available only to the extent budgeted and may be modified or rescinded by action of the Board of Directors.

Section Three: Definitions

Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below and shall be permanently added to or deleted from Rule 11, Definitions,

of the Rules and Regulations of the District. New and revised text is shown in bold italics (*bold italics*) and deleted text is shown in strikeout (~~strikeout~~). Numbering is provided for ease of review.

1. ***COMMON LAUNDRY ROOM*** – *“Common Laundry Room” shall mean a room where one or more Clothes Washers are located and available for use by all occupants of a Multi-Family Residential Site.*
2. ***COOLING TOWER CONDUCTIVITY/pH CONTROLLER*** – *“Cooling Tower Conductivity/pH Controller” shall mean a device that controls both the conductivity or Total Dissolved Solids (TDS) and pH of water in a cooling system and controls incoming feed and outgoing bleed or discharge water to maximize efficiency.*
3. ***DRY VACUUM PUMP*** – *“Dry Vacuum Pump” shall mean a vacuum pump that creates vacuum without the use of water as a sealant by using parts which are machined with extremely close tolerances.*
4. ***GRAYWATER IRRIGATION SYSTEM*** – *“Graywater Irrigation System” shall be an onsite wastewater treatment system designed to collect Graywater and transport it out of the structure for distribution in an Irrigation System.*
5. ***HIGH EFFICIENCY CONNECTIONLESS FOOD STEAMER*** – *“High Efficiency Connectionless Food Steamer” shall mean a sealed cooking appliance that uses steam as the primary mode of heating. High Efficiency Connectionless Food Steamers shall have Energy Star certification.*
6. ***ULTRA HIGH EFFICIENCY TOILET*** – *“Ultra High Efficiency Toilet” shall mean a toilet that flushes with less than 1.0 gallons of water and that is labeled by the U.S. EPA WaterSense program.*

Section Four: Retroactive Rebates for Graywater Irrigation Systems

Rebates for Graywater Irrigation Systems added by this ordinance shall be available retroactively for Graywater Irrigation Systems purchased on or after July 1, 2010, subject to the time limitation and eligibility criteria outlined in the Rebate Eligibility guidelines of Rule 141-C, as amended. Increases in Rebate amounts shall apply only to purchases made after the effective date of the ordinance.

Section Five: Amendment of Rule 141 – Water Conservation Rebates

Rule 141 shall be amended as shown in bold italics (*bold italics*) and strikeout (~~strikeout~~).

RULE 141 – WATER CONSERVATION REBATES

A. **QUALIFYING DEVICES**

Rebates are available for purchase of the following Qualifying Devices within the boundaries of the Monterey Peninsula Water Management District:

1. High Efficiency Dishwasher;
2. High Efficiency Clothes Washer for Residential use;
3. Instant-Access Hot Water System;
4. High Efficiency Toilet;
5. Zero Water Consumption Urinal;
6. One or more Cisterns installed as a component of an Irrigation System. Maximum available Rebate shall be for ~~325,000~~ 25,000 gallons of Cistern storage capacity on a Qualifying Property;
7. Smart Controller;
8. Rain Sensor appurtenant to a Smart Controller or to a conventional automatic Irrigation System controller;
9. Soil Moisture Sensors that control the irrigation cycles of a conventional automatic Irrigation System controller or Smart Controller. Gypsum block Soil Moisture Sensors shall not be included on the list of Qualifying Devices.
10. Removal of established Lawn and replacement with low water use plants or permeable surfaces (maximum of 25,000 square-feet) (requires pre and post inspection);
11. Synthetic Turf (maximum of 2,000 square-feet);
12. High Efficiency Urinal;
13. Pint Urinal;
14. Rotating Sprinkler Nozzle;
15. Water Broom. Maximum available Rebate shall be for two Water Brooms per Qualifying Property;
16. High Efficiency Clothes Washer designed and manufactured for Non-Residential uses;
17. Cooling Tower Conductivity Controller;
18. Water Efficient Ice Machine;
19. X-ray film processor recirculation system;

20. *Cooling Tower pH/Conductivity Controller;*
21. *Dry Vacuum Pump;*
22. *Graywater Irrigation System;*
23. *High Efficiency Connectionless Food Steamer;*
24. *High Efficiency Commercial Dishwasher;*
25. *Retrofit of a medical equipment steam sterilizer that utilizes a continuous water flow with a water tempering device.*
26. *Ultra High Efficiency Toilet.*

B. REBATE AMOUNTS

The following Rebates shall be issued by the District on a first-come, first-served basis as long as funds remain available. In the event that funds are expended, applications shall be filed in the order received. If all eligibility criteria has been met and additional funding is made available, Rebates shall be first funded for applications on file pending Rebate, with all subsequent applications taken in a first-come, first-served order as long as funding remains available.

At no time shall the Rebate amount exceed the price of the Qualifying Device:

1. The Rebate for a High Efficiency Toilet shall be \$200 per toilet.
2. The Rebate for a High Efficiency Dishwasher shall be \$125.
3. The Rebate for High Efficiency Clothes Washer shall be \$250.
4. The Rebate for an Instant-Access Hot Water System shall be \$200 per Qualifying Property.
5. The Rebate for an on-demand pump or point-of source water heater as part of an Instant-Access Hot Water System shall be \$100 per component, to a maximum of two components per Qualifying Property.
6. The Rebate for Zero Water Consumption Urinal shall be \$300.
7. The Rebate for a Smart Controller shall be \$100 for up to four stations. An additional \$10 shall be available per station up to twenty (20) stations or the actual cost, whichever is less. The District shall maintain a list of qualifying Smart Controllers.
8. The Rebate for a Rain Sensor attached to an Irrigation System controller shall

be \$25.

9. The Rebate for installation and use of one or more Soil Moisture Sensor(s) on a conventional automatic Irrigation System shall be \$25 per sensor or the actual cost, whichever is less. Gypsum block Soil Moisture Sensors shall not qualify for Rebate.
10. The Rebate for Cistern water tanks shall be \$25 per 100 gallons of water storage capacity, up to a maximum storage capacity of 3,000 gallons per Qualifying Property.
11. The Rebate for Lawn removal and replacement with low water use plants or permeable surfaces shall be \$1.25 per square-foot to a maximum of 25,000 square-feet per Qualifying Property.
12. The Rebate for Synthetic Turf shall be \$2.00 per square-foot, to a maximum of 2,000 square-feet per Qualifying Property.
13. The Rebate for a High Efficiency Urinal shall be \$200.
14. The Rebate for a Pint Urinal shall be ~~\$250~~300.
15. The Rebate for a Rotating Sprinkler Nozzles (*minimum purchase and installation of ten*) shall be ~~\$0.50~~4.00.
16. The Rebate for a Water Broom shall be \$150.
17. The Rebate for a High Efficiency Clothes Washer for Non-Residential use shall be \$450. For the purpose of this Rebate, a Multi-Family Residential Qualifying Property with a ~~e~~Common ~~l~~Laundry ~~r~~Room shall be considered a Non-Residential use;
18. The Rebate for a Cooling Tower Conductivity Controller shall be \$1,000;
19. The Rebate for a CEE Tier II Water Efficient Ice Machine shall be \$4500;
20. The Rebate for an X-ray film processor recirculation system shall be \$2,0500.
21. *The Rebate for a Cooling Tower pH/Conductivity Controller shall be \$2,500.*
22. *The Rebate for Dry Vacuum Pumps shall be \$200 per 0.05 HP to a limit of 4 HP.*
23. *The Rebate for a High Efficiency Connectionless Steamer shall be \$1,500 per compartment.*

23. *The Rebate for a Water Efficient Commercial Dishwasher shall be:*
 - a. *\$500 for an under counter model.*
 - b. *\$1,000 for a single tank door type model.*
 - c. *\$1,500 for a single tank conveyor.*
 - d. *\$2,000 for a multi-tank conveyor.*
24. *The Rebate for a Graywater Irrigation System supplied by one Clothes Washer for irrigation shall be \$100.*
25. *The Rebate for a Graywater Irrigation System supplied by one or more Bathrooms that have a Bathtub/Shower connected to a Graywater Irrigation System shall be \$100 per Bathroom. Residential limit: 4.*
26. *The Rebate for a Non-Residential Graywater Irrigation System shall be considered on a case-by-case basis by the General Manager.*
27. *The Rebate for a medical equipment steam sterilizer retrofit with a water tempering device shall be \$1,500.*
28. *The Rebate for an Ultra High Efficiency Toilet shall be \$250.*

C. REBATE ELIGIBILITY

1. Rebates shall be issued for Qualifying Devices installed on Sites located within the District that are served by Water Distribution Systems regulated by the District.
2. No Rebate shall be issued for installation of Qualifying Devices that are required to be installed and maintained by Regulation XIV of the District and no Rebate shall be issued for installation of Qualifying Devices that have been used to obtain a Water Permit. Rebates shall be available for all retrofits until the date the retrofit becomes mandatory, such as the date a Change of Ownership *or Change of Use* occurs, a Water Permit is issued, or the date a Non-Residential retrofit is required pursuant to Regulation XIV.
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 with the exception of Clothes Washers that have been removed from the Qualifying Property by a previous owner/tenant.
4. Rebates shall be available for a maximum of twenty (20) toilets on *all* Non-Residential Qualifying Properties *with the exception of Qualifying Properties owned and operated by a California Non-Profit Corporation.*

5. Rebates *for Cisterns* shall not be issued for more than *be limited to 25,000* 3,000 gallons of Cistern-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 may require verification of usable roof area by Site inspection.*
6. Rebates for Lawn removal and Synthetic Turf shall be available only to Qualifying Properties irrigated with water from the Monterey Peninsula Water Resource System.
7. Applicants for Rebates for Synthetic Turf should inquire about local codes with the Jurisdiction prior to purchase and installation.
8. A Qualifying Property may qualify for both a Lawn removal Rebate and a Synthetic Turf Rebate.
9. Water Efficient Ice Machines shall be listed as CEE Tier II.
10. An X-ray film processor recirculation system shall be listed as a qualifying model by the California Urban Water Conservation Council Resource Center.
11. *Rebates for Dry Vacuum Pumps shall be available only when the Qualifying Device is replacing a water (liquid) ring pump.*
12. *Rebates for retrofitting medical steam sterilizers with water tempering devices are limited to those sterilizers that use a continuous water flow to cool the steam discharge.*
13. *Ultra High Efficiency Toilets shall meet or exceed the EPA WaterSense labeling criteria and shall bear the WaterSense Label and be listed on the www.epa.gov/watersense website.*

D. CONDITIONS OF APPROVAL

1. Applications for Rebates shall be submitted within ~~90~~ **120** days of purchase of Qualifying Devices.
2. Applicant agrees to install the fixture and/or appliance at the property listed on the application form.
3. Applicant shall certify under the penalty of perjury that the information on the application is true and complete.
4. Rebates shall only be granted for Qualifying Devices that meet the definitions as provided in Rule 11.
5. Applicant agrees that the District may conduct an inspection of the Rebate

Site to verify installation of Qualifying Devices.

6. Rebates shall only be granted for Smart Controllers that meet minimum quality and dependability requirements as determined by product testing conducted by the Irrigation Association. Smart Controllers that meet these criteria shall be named on a list of qualifying Smart Controllers on file at the District offices. A copy of this list shall be posted on the District's website and shall be updated as new Smart Controllers meet the Irrigation Association criteria.
7. In addition to other requirements, Sites for Rebate for installation of Smart Controllers shall meet the following minimum requirements:
 - a. Irrigation System shall be a fully operational in-ground Irrigation System operated by an automatic sprinkler timer, and shall be efficiently designed, or modified if necessary, to include proper distribution uniformity, matched spray heads or emitters with similar precipitation rates, efficient hydrozoning, and proper spacing.
 - b. Site shall include at least 1,500 square-feet of automatically irrigated Landscaping.
 - c. Property owner agrees to release historical and future water usage data for statistical purposes.
 - d. Smart Controller must be installed and operational at the installation Site.
8. Lawn removal and replacement at a Qualifying Property shall be subject to annual visual verification by the District.
9. Determinations of eligibility for Lawn removal and replacement Rebates shall be at the discretion of the General Manager.
10. Rebates for Lawn removal and replacement with low water use plants or permeable surfaces and for Synthetic Turf installation shall require a free ~~pre-inspection~~ **review** by the District to document existing conditions. ***This review shall document the existing Lawn before removal/installation and shall have include a follow-up inspection to document removal of the Lawn and replacement with low water use plants or permeable surfaces and/or installation of Synthetic Turf. These actions, along with submittal of a complete Rebate Application and recordation of Deed Restrictions, shall occur within 120 days to qualify for a Rebate.*** The follow-up inspection verifying Lawn removal and replacement shall occur within six (6) months of the ~~pre-inspection~~.
11. Lawn removal and Synthetic Turf Rebates shall require recordation of a deed

restriction on the title of the property prior to release of Rebate funds. The deed restriction shall specify that the property is restricted to the changed landscaped area for a period of fifteen (15) years. The deed restriction shall be rescinded upon repayment to the District of the full Rebate amount and any processing fee required pursuant to Regulation VI, Fees.

12. *Graywater Irrigation System Rebates shall be granted when the following conditions have been met:*

- a. Applicant shall comply with the Monterey County Department of Health's Graywater Irrigation Systems Permitting Process and Design Criteria.***
- b. Any necessary building/plumbing permits have been completed and copies provided with the Rebate application.***
- c. MPWMD staff may verify Graywater Irrigation Systems by Site inspection or other means.***

E. APPLICATION

1. A completed application for Rebate shall include the name and address of the Applicant, property owner's name, telephone numbers, address of property where the fixture and/or Qualifying Device is being installed, Assessor's Parcel Number, water company account number, date of retrofit, brand and model of Qualifying Device installed, name of installer and receipt for the purchase of the appliance. The application shall also request information about how the Applicant learned of the Rebate program.
2. Applications for Rebate shall include either the original or a full copy of the receipt for purchase.
3. Written authorization of the current property owner shall be required for Applicants who are not the owners of the property for which a Rebate is requested. The authorization must indicate the property owner's consent to the Applicant receiving a Rebate for installation of the Qualifying Devices. Applications submitted without owner approval will be denied.

F. PROCESS

1. Upon receipt of an application, the District shall verify completion and accuracy of information and shall verify the purchase of the Qualifying Device(s) by reviewing the purchase receipt(s).
2. The District shall search its records for previous retrofit requirements. If no

match is found, a Rebate shall be processed if funds are available in the Rebate Account. In the event that funds are not available, the application will be kept on file pending augmentation of the Rebate Account.

3. Information contained on the application will be added to the District's records for future use in assessing water savings achieved through the Rebate Program.
4. When funds are available in the District's Rebate Account, a Rebate check will be processed and mailed to the Applicant.

Section Six: **Publication and Application**

The provisions of this ordinance shall cause the amendment and republication of Rule 11 and Rule 141 to the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Seven: **Effective Date**

This ordinance shall be given effect at 12:01 a.m. on September 1, 2010.

Section Eight: **Sunset**

This ordinance shall not have a sunset date.

Section Nine: **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 _____, 2010, by the following vote:

AYES:

NAYS:

ABSENT:

I, Darby W. Fuerst, 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 _____, 2010.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2010.

Darby W. Fuerst, Secretary to the Board

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