

Preliminary Draft

ORDINANCE NO. 148

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING THE REBATE PROGRAM
TO CLARIFY THE PROCESS FOR LAWN REMOVAL AND REPLACEMENT REBATES**

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. 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:

DRAFT

ORDINANCE

Section One: Short Title

This ordinance shall be known as the **2011 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 clarify the procedure and application process for Lawn removal Rebates.

Section Three: Amendment of Rule 141 – Water Conservation Rebates

Rule 141 shall be amended as shown in bold italics (***bold italics***) and strikeout (~~strike through~~). No changes are proposed for Rules 141-A or 141-B.

RULE 141 – WATER CONSERVATION REBATES

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. ***The Site must be in compliance with District Rules prior to issuance of a Rebate.***
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. ***Rebates shall not be available for Qualifying Devices that become mandated by a local, State, or Federal water conservation programs.***
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. ***Ultra High Efficiency Toilets shall meet or exceed the EPA WaterSense labeling criteria and shall bear the WaterSense Label and be listed on the WaterSense website.***
45. 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.
6. ***Outdoor Water Use Rebates***
 - 5a. Rebates for Cisterns shall not be issued for more than be limited to 25,000 3,000 gallons of ***rainwater*** 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.
 - b. Rebates for Lawn removal and Synthetic Turf shall be available only to Qualifying Properties irrigated with water from the Monterey Peninsula Water Resource System.
 - c. ***Lawns must be green, regularly maintained at a low even height, irrigated regularly, and be well cared for at the time of application for a Rebate. Dead Lawns or Lawns that have been removed prior to issuance of a Lawn Rebate prequalification statement from the District shall not be eligible for a Rebate.***
 - d. ***Eligibility will be determined upon receipt of a complete application as described in Rule 141-E, and the District will notify the Applicant by written documentation that the proposed Lawn removal and replacement proposal has been prequalified.***
 7.
 - e. Applicants for Rebates for Synthetic Turf should inquire about local codes with the Jurisdiction prior to purchase and installation.
 8.
 - f. A Qualifying Property may qualify for both a Lawn removal Rebate and a

Synthetic Turf Rebate.

7. ***Non-Residential Rebates***

- 9a. Water Efficient Ice Machines shall be listed as CEE Tier II.
- 10b. An X-ray film processor recirculation system shall be listed as a qualifying model by the California Urban Water Conservation Council Resource Center.
- 11c. Rebates for Dry Vacuum Pumps shall be available only when the Qualifying Device is replacing a water (liquid) ring pump.
- 12d. 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 WaterSense website.~~

D. **CONDITIONS OF APPROVAL**

- a. Applications for *all* Rebates *with the exception of Lawn removal Rebates* shall be submitted within 120 days of purchase of Qualifying Devices.
2. Applicant ~~agrees to~~ ***shall*** 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 *for Weather-Based Irrigation System Controllers*

- a. *Rebates* shall only be granted for ~~Smart~~ **Weather-Based Irrigation** 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:~~

- ab. ~~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.~~
- bc. Site shall include at least 1,500 square-foot of automatically irrigated Landscaping.
- ed. Property owner agrees to release historical and future water usage data for statistical purposes.

~~Smart Controller must be installed and operational at the installation Site.~~

8. Rebates for Lawn removal and replacement with low water use plants or permeable surfaces and for Synthetic Turf installation.

- a. Lawn removal and replacement at a Qualifying Property shall be subject to annual visual verification by the District.
- b. Determinations of eligibility for Lawn removal and replacement Rebates shall be at the discretion of the General Manager.
- c. ~~Rebates for Lawn removal and replacement with low water use plants or permeable surfaces and for Synthetic Turf installation.~~ **Rebate applications for Lawn removal** shall require a free by the District to document existing conditions **prequalification. The prequalification**

process is explained in Rule 141-E, Application. before removal/installation and shall have a follow-up inspection to document removal of Lawn and replacement with low water use plants or permeable surfaces and/or installation of Synthetic Turf. The follow-up inspection verifying Lawn removal and replacement shall occur within six (6) months of the pre-inspection.

- d. Lawn must be replaced with low water use plants or permeable surfaces (mulch, decomposed granite, Synthetic Turf, permeable pavers, etc.). Concrete and grouted pavers do not qualify.*
- e. If converted area is irrigated, a Drip Irrigation System must be installed and maintained. Overhead irrigation shall not be installed.*
- f. Planted areas must be mulched to a minimum depth of three inches from the plant to the drip line of the plant.*
- dg. 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.*

9. *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. ***Lawn Rebates applications shall follow the process shown in Rule 141-F.***
23. Applications for Rebate shall include either the original or a full copy of the receipt for purchase.
34. 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. ***Lawn removal Rebate application process.***
 - a. ***Applicant must complete and submit a Lawn Rebate Application form that includes the following documents:***
 - (1) ***Water records (either bills or a printout from the Water Distribution System) for the two most recent years;***
 - (2) ***A Site plan showing a detailed description 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 will be reviewed and if removal of the Lawn will result in documentable water savings, the Applicant will be contacted to arrange a Site inspection to verify the Lawn. Lawn must be maintained until after a Site inspection and issuance of a Lawn Rebate Prequalification letter.*
 - c. When a Lawn Rebate Prequalification letter is issued, funding shall be reserved and the Applicant shall have 90 days to complete the project and submit receipts, arrange for a final inspection by the District, and record deed restrictions.*
23. 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.
34. 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.
45. When funds are available in the District's Rebate Account, a Rebate check will be processed and mailed to the Applicant.

Section Four: 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 Five: Effective Date

This ordinance shall be given effect at 12:01 a.m. on _____.

Section Six: Sunset

This ordinance shall not have a sunset date.

Section Seven: 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 _____, 2011, 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 _____, 2011.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2011.

Darby W. Fuerst, Secretary to the Board