

ORDINANCE NO. 110

AN ORDINANCE OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT EXPANDING THE TOILET RETROFIT REBATE PROGRAM TO INCLUDE REBATES FOR ULTRA-LOW CONSUMPTION DISHWASHERS, ULTRA-LOW CONSUMPTION WASHING MACHINES, DUAL-FLUSH ULTRA-LOW FLUSH TOILETS, HOT WATER DEMAND PUMPING SYSTEMS AND RAINWATER CISTERNS

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 Company (Cal-Am) did not have a legal right to take approximately 69 percent of the water supplied to Cal-Am 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, Cal-Am 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. Cal-Am is a co-sponsor in the District's toilet retrofit rebate program and will continue as a co-sponsor.
7. Properties located throughout the Cal-Am service areas of the Monterey Peninsula Water Management District will benefit from the expanded rebate program.
8. 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.
9. 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.
10. Toilet retrofitting has proven to be an effective method to reduce water demand. The rebate program provides an incentive to retrofit to people who might not otherwise replace older toilets with more water efficient models.
11. Replacing existing dishwashers and washing machines with ultra-low water consumption models is a proven method to reduce potable water use.

12. Installing ultra-low flush toilets that have optional 0.8-gallon flushes for liquid waste increases the water savings associated with toilet retrofits.
13. Installing hot water demand pumping systems in existing construction is a proven method to reduce potable water use.
14. Installing rainwater cistern systems reduces dependence on and use of potable water for outdoor irrigation.
15. This ordinance shall supersede and replace the existing Rebate Program Ordinances.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the Expanded Rebate Program 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 toilet replacement rebate program as set forth in Ordinance Nos. 85 and 88. The purpose of this ordinance is to continue and to expand the rebate program approved in the Action Plan for Water Supply Alternatives adopted by the Board of Directors in February 1996. This expansion of the rebate program provides rebates for the following qualifying devices: Ultra-low water consumption dishwashers and washing machines, cisterns, hot water demand pumping systems and dual-flush ultra-low flush toilets. The previously adopted rebate program for replacement of older toilets with ultra-low flush (ULF) models shall continue and is reenacted and expanded by this ordinance.

The Rebate Program is designed to provide an incentive to encourage water saving retrofits that might not otherwise occur. The program offers rebates of \$100 for each ultra-low water consumption dishwasher, ultra-low consumption washing machine and hot water demand pumping system. The program also offers up to \$100 for each ULF toilet that replaces a non-ULF model and \$25 for each 100 gallons of rainwater storage capacity in a cistern system (up to a maximum storage capacity of 3,000 gallons). Participation in the rebate program is voluntary. The rebates offered by this program will be available only to the extent budgeted, and only as long as funds are available in the rebate account or until rescinded by action of the Board.

Section Three: Definitions

Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below for the purpose of this ordinance and shall be permanently included in Rule 11, Definitions, of the Rules and Regulations of the District. Additional words used in this ordinance are defined in Rule 11.

- A. CISTERN SYSTEM - "Cistern System" shall mean one or more water tanks that are integrated into an irrigation system and connected to a rainwater collection system.

- B. DUAL FLUSH ULTRA-LOW FLUSH TOILET - "Dual Flush Ultra-Low Flush Toilet" shall mean a toilet designed to allow the user to choose between a light flush (usually 0.8 gallon) and a longer 1.6-gallon flush.
- C. HOT WATER DEMAND PUMPING SYSTEM - "Hot water demand pumping system" shall mean electric water pumping systems that quickly (typically within 30 seconds) bring hot water to the fixture by drawing water from the hot water tank and returning ambient house temperature water back to the hot water tank where it is heated. When a predetermined set point temperature (usually 5°F above room temperature) in the line near the fixture is reached, the pump stops automatically and hot water is thereby available at the faucet. The pump may be operated by a switch placed next to the fixture or by a remote control. Hot water demand pumping systems shall have the U.S. Environmental Protection Agency Energy Star rating to qualify for a rebate.
- D. MANDATED - "Mandated" shall mean a requirement of the District (e.g. ultra-low flush toilets are mandated for new construction) adopted by ordinance.
- E. QUALIFYING DEVICES - "Qualifying Devices" shall mean fixtures and/or appliances that meet the criteria for a rebate.
- F. QUALIFYING PROPERTY - "Qualifying Property" shall mean a property where there has been no requirement to install the qualifying devices for which the rebate is requested. Properties that do not meet this definition include: (1) properties subject to Rule 144, (2) properties for which a water permit was issued between 1985 and 1987, and/or (3) properties required to retrofit as a condition of a water rationing variance.
- G. REBATE - "Rebate" shall mean a payment to an applicant for the purchase and installation of qualifying devices on a qualifying property.
- H. REBATE ACCOUNT - "Rebate Account" shall be an internal account of the District specifically set up to supply funds for rebates. Creation of this account does not provide any assurance that the District shall budget funds for this account. The account will be debited for each rebate issued until no funds remain. At such time as funds are exhausted, no further rebates shall be issued. This account may be augmented from time to time by action of the Board.
- I. ULTRA-LOW CONSUMPTION DISHWASHER - "Ultra-Low Consumption Dishwasher" shall mean a dishwasher designed to use a maximum of 7.66 gallons during every complete cycle.
- J. ULTRA-LOW CONSUMPTION WASHING MACHINE - "Ultra-Low Consumption Washing Machine" shall mean a washing machine designed to use a maximum of 28 gallons during every complete cycle.
- K. ULTRA-LOW FLUSH (ULF) TOILET - "Ultra-Low Flush Toilet" or "ULF Toilet" shall mean a toilet that is designed to flush with no more than 1.6 gallons-per-flush.

Section Four: Rebates

A. Rebates are available for completion of any of the following actions:

1. Replacement of a non-ultra-low flush toilet with an ultra-low flush toilet.
2. Initial installation of an ultra-low consumption dishwasher;
3. Initial installation of an ultra-low consumption washing machine;
4. Initial installation of a hot water demand pumping system;
5. Initial installation of a dual-flush ultra-low flush toilet;
6. Initial installation of a rainwater cistern tank that is integrated into an irrigation system and connected to a rainwater collection system. Maximum available rebate is for 3,000 gallons of cistern storage capacity on a site.

B. The following rebates are enacted by this ordinance:

1. The rebate for toilet replacements shall cover the cost of the toilet, seat, wax seal, supply line, angle stop, plumbing permit, sales tax and installation by a licensed plumber, not to exceed \$100 per toilet or the actual cost per toilet, whichever is less.
2. The rebate for ultra-low consumption dishwashers, washing machines, hot water demand pumping systems and dual-flush ultra-low flush toilets shall be \$100 per appliance or the actual cost, whichever is less.
3. 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 site.

Section Five: Eligibility

A. Qualifying Criteria. The rebate created by this ordinance shall apply only to qualifying devices installed in properties supplied by a water distribution system or private well that derives water from the Monterey Peninsula Water Resources System (MPWRS) or is supplied as a sub-unit of the California-American Water Company within the boundaries of the Monterey Peninsula Water Management District (i.e. Bishop, Hidden Hills, and Ryan Ranch water systems). The District maintains a list of all water systems within the MPWRS.

B. Exceptions. Notwithstanding the previous paragraph, the following properties shall not qualify for a rebate for purchase of an ultra-low flush toilet:

1. Properties subject to Rule 144 (transfer of ownership or expansion in use requiring retrofit to ultra-low water using fixtures) at the time the rebate application is processed.

2. Properties for which a water permit was issued between 1985 and 1987 whereby a connection charge reduction was allowed due to voluntary installation of ultra-low flush toilets.
3. Properties required to retrofit with ultra-low flush toilets as a condition of a water rationing variance (Rule 92).

C. Replacement of Existing Fixtures.

1. Rebates shall not be issued for the replacement of existing qualifying devices.
2. Notwithstanding C-1 above, replacement of an ultra-low flush (1.6 gallons-per-flush) toilet with a dual-flush ultra-low flush toilet shall qualify for a rebate.

D. Limitation on Rebates. Rebates shall not be issued for the replacement of more than twenty (20) toilets on a non-residential site or for more than 3,000 gallons of cistern storage capacity on a site.

E. Purchase Date and Installation.

1. Applications for rebates shall be submitted within 90 days following purchase of qualifying devices.
2. Applicants agree to install the fixture and/or appliance at the property listed on the application form.
3. Applicants shall certify under the penalty of perjury that the information on the application is true and complete.

Section Six: Amendment to Rule 25.5 - Water Use Credits

The following text (in ~~strike through~~) shall be deleted in Rule 25.5, A:

- A. Except where a permit has been canceled, returned or revoked under these Rules, a Person may receive a Water Use Credit for the permanent abandonment of some or all of the prior water use on that Site by one of the methods set forth in this Rule. A Water Use Credit shall enable the later use of that water on that same Site.
1. A Person may apply to the District for a Water Use Credit in advance of the abandonment of capacity for water use, which that Person may cause on that Site. In such a circumstance, District staff (1) shall verify that the Reduction is one which is permanent, (2) shall quantify the capacity for water use which remains, (3) shall quantify the reduced water use (the abandoned capacity), (4) shall quantify the increment of reduction which exceeds the District's target of 15% conservation based upon the criteria used for the Water Allocation EIR, and (5) shall provide written confirmation of the Water Use Credit based upon the quantity set forth in element (4) above. Credit shall not be given for any reduction, which occurs by reason of a District, mandated or sponsored program (e.g. retrofit-on-resale). A Water Use Credit obtained pursuant to this method may be applied to, and shall allow future water use on that Site at any time within a period of 60 months. After the 60th month, renewal of this Water Use Credit shall be allowed only upon proof by the applicant that some or all water savings represented by that Credit are current. If all savings are not current, a pro-rata reduction shall occur. A single renewal

period of 60 months shall be allowed; thereafter any remaining unused Water Use Credit shall expire. Water Use Credits shall not be transferable to any other Site.

2. A Person who has not applied in advance to the District for a Water Use Credit (in advance of the abandonment of the capacity for water use) may still request that a Credit be given based on prior reductions in water use capacity which occurred on that Site within the preceding eighteen (18) months. In such a circumstance the applicant shall have the burden to quantify and verify both the reduction of water use capacity, and the date such reduction occurred. District staff shall determine the increment of reduction which exceeds the District's target of 15% conservation as set forth in the Allocation EIR and shall determine the effective date for that reduction in capacity for water use. Credit shall not be given for any reduction, which occurs by reason of a District-, mandated or sponsored program (e.g. retrofit-on-resale); credit shall not be given for any reduction which was completed more than eighteen (18) months prior to the date of the application for the Water Use Credit. The quantity of water determined by staff to be available for a Water Use Credit under this method, once the Water Use Credit has been granted, may be applied to, and shall allow future water use on that Site within thirty (30) months from the date the reduction first occurred, and upon proof by the applicant that those water savings are still current. After the 30th month, renewal of this Water Use Credit shall be allowed only upon proof by the applicant that some or all water savings represented by that Credit are current. If all savings are not current, a pro-rata reduction shall occur. A single renewal period of thirty (30) months shall be allowed; thereafter any remaining Water Use Credit shall expire. Water Use Credits shall not be transferable to any other Site. Residential Water Use Credits shall not be transferable to any other Site.
3. Water Use Credit shall provide the basis for issuance of a permit for an Intensified Water Use on that Site provided (1) the credit is current (has not expired), and (2) provided the abandoned capacity (saved water) forming the basis for the Water Use Credit is determined not yet to have been used on that Site. There shall be no connection charge assessed for the capacity for water used pursuant to any Water Use Credit. Connection charges, however, shall apply to the capacity for water use, which exceeds the Water Use Credit, or for any expansion of use following the expiration of the Water Use Credit. No refund shall accrue by reason of water use reduction, or abandonment of capacity, whether or not reflected by a Water Use Credit. Issuance of a Water Use Credit shall not result in any change to a Jurisdiction's Allocation. Use of any Water Use Credit shall similarly not cause a change to a Jurisdiction's Allocation."

Section Seven: Administration

A. Prerequisites for Approval of Rebates.

1. Applications for rebates shall be submitted within 90 days following purchase of qualifying devices.
2. 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 toilet or other appliance installed, name of installer and receipt for the purchase of the appliance. Applications for rebate for installation of an ultra-low flush toilet shall include a receipt for installation costs and any parts associated with installation of an ultra-low

flush toilet if these items fall within the \$100 maximum rebate for ultra-low flush toilets. The District shall provide application forms.

3. Written authorization of the current property owner is 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's receiving a rebate for installation of the qualifying devices. Applications submitted without owner approval will be denied.
4. Applicants and property owners agree to install the fixture and/or qualifying device at the property listed on the application form and shall certify under the penalty of perjury that the information on the application is true and complete.

B. Application Process.

1. Applications for rebates shall be submitted within 90 days following purchase of qualifying devices.
2. Upon receipt of an application, the District shall verify completion and accuracy of information and shall verify the receipt is valid.
3. 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.
4. A property subject to a past retrofit requirement for ULF toilets is not eligible for a rebate for ULF toilets.
5. 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.
6. So long as funds are available in the District's rebate account, a rebate check will be processed and mailed to the applicant by the District approximately 30 days following receipt of a complete and valid application.

Section Eight: Review of Ordinance

The District shall review the rebate program in October 2005 and determine whether to continue, modify or terminate the program.

Section Nine: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of Rule 11 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This ordinance shall be read in conjunction with and complement those provisions of the District's Rules and Regulations.

Section Ten: Effective Date

This ordinance shall be given effect at 12:01 a.m. on December 1, 2003.

Section Eleven: Sunset

This ordinance shall not have a sunset date.

Section Twelve: 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 Lehman, and second by Director Lindstrom, the foregoing ordinance is adopted upon this 30th day of September, 2003 by the following vote:

AYES: Directors Edwards, Henson, Lehman, Lindstrom and Pendergrass
NAYS: None
ABSENT: Erickson and Potter

I, Fran Farina, 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 30th day of September, 2003.

Witness my hand and seal of the Board of Directors this 10th day of October, 2003.



Fran Farina, Secretary to the Board