

*Effective Date – March 1, 2007*

**FINAL  
ORDINANCE NO. 127**

**AN ORDINANCE OF  
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
EXPANDING THE REBATE PROGRAM TO INCLUDE REBATES FOR HIGH  
EFFICIENCY TOILETS AND ZERO WATER CONSUMPTION URINALS**

**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. *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 October 31, 2006, the rebate program saves 174.443 Acre-Feet Annually.
8. Cal-Am is a co-sponsor in the District's rebate program and provides up to fifty (50) percent of the annual rebate fund.
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. High Efficiency Toilets are proven to perform equally or better than ultra-low flush (1.6 gpf) toilets.
11. Zero Water Consumption Urinals have been proven successful at reducing water demand in Non-Residential uses.
12. This ordinance modifies Rule 11 to classify urinals that use no water as Zero Water Consumption Urinals.
13. This ordinance substitutes the term Zero Water Consumption Urinal for Waterless Urinals throughout the Rules and Regulations of the District.
14. 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.
15. This ordinance complements the provisions of the rebate program enacted by MPWMD Ordinance No. 110 and shall be read concurrently, with this ordinance superseding any conflicting provisions of the previous ordinance.

NOW THEREFORE be it ordained as follows:

## **ORDINANCE**

### **Section One: Short Title**

This ordinance shall be known as the 2007 High Efficiency Toilet and Zero Water Consumption Urinal Rebate 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 No. 110. The purpose of this ordinance is to continue and to expand the rebate program by adding High Efficiency Toilets (HET) and Zero

Water Consumption Urinals to the list of Qualifying Devices. The previously adopted rebate program shall continue and is reenacted and expanded by this ordinance.

### **Section Three: Definitions**

A. 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. Revised text is shown in bold italics (*bold italics*) and strikeout (~~strike through~~). Numbering is provided for ease of review.

1. ***HIGH EFFICIENCY TOILET (HET)*** – *“High Efficiency Toilet” or “HET” shall mean a toilet that is designed to flush at 20 percent below a 1.6-gallons-per-flush Ultra-Low Flush Toilet. A High Efficiency Toilet shall have a maximum average flush of 1.28 gallons.*

2. ~~**WATERLESS ZERO WATER CONSUMPTION URINAL**~~ - ~~“Waterless Zero Water Consumption Urinal”~~ shall mean a fixture, typically attached upright to a wall, used by men for urinating, that uses no water by replacing the water flush with a specially designed trap that contains a layer of immiscible liquid that floats above a urine layer, blocking sewer gas and urine odors from the room.

B. All references to Waterless Urinal(s) in the Rules and Regulations of the District shall be replaced with Zero Water Consumption Urinal(s).

### **Section Four: Rebate**

A. This ordinance adds High Efficiency Toilets to the list of Qualifying Devices.

B. This ordinance adds Zero Water Consumption Urinals to the list of Qualifying Devices.

C. This ordinance expands the rebate program to all Water Users within the Monterey Peninsula Water Management District.

### **Section Five: Eligibility**

A. Qualifying Criteria. The rebates created by Ordinance Nos. 110 and 127 shall be available to Qualifying Devices installed on Sites supplied by a Water Distribution System that is regulated by the Monterey Peninsula Water Management District.

B. Replacement of Existing Fixtures.

1. Rebates shall not be issued for the replacement of existing Qualifying Devices.

2. Notwithstanding B-1 above, replacement of an Ultra-Low Flush (1.6 gallons-per-flush) Toilet with a High Efficiency Toilet shall qualify for a rebate.

**Section Six: 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. This ordinance shall be read concurrently with Ordinance No. 110, with this ordinance superseding any conflicting provisions of the previous ordinances.

**Section Seven: Effective Date**

This ordinance shall be given effect at 12:01 a.m. on March 1, 2007.

**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 Potter, and second by Director Foy, the foregoing ordinance is adopted upon this 25th day of January, 2007, by the following vote:


AYES: Directors Edwards, Foy, Knight, Lehman, Markey, Pendergrass and Potter

NAYS: None

ABSENT: None

I, David A. Berger, 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 25th day of January, 2007.

Witness my hand and seal of the Board of Directors this 26<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
David A. Berger, Secretary to the Board