

*Adopted August 20, 2007 – Effective September 20, 2007*

**ORDINANCE NO. 129**

**AN ORDINANCE OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
ADDING THE REBATE PROGRAM TO THE RULES AND REGULATIONS OF THE  
DISTRICT, AMENDING THE REBATE AMOUNTS, EXCLUDING AREAS WITHIN THE  
DISTRICT THAT RECEIVE WATER FROM WATER DISTRIBUTION SYSTEMS NOT  
REGULATED BY THE DISTRICT FROM THE REBATE PROGRAM, AND ADDING  
REBATES FOR CERTAIN WATER SAVING IRRIGATION SYSTEM 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 June 30, 2007, the Rebate Program has saved 186.01 Acre-Feet Annually.
8. California American Water is a co-sponsor of the 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. 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. Installing Smart Controllers and replacing conventional Irrigation System controllers with Smart Controllers increases irrigation efficiency and saves water.
12. Providing an incentive for installation of Rain Sensors on automatic Irrigation Systems encourages retrofits, thereby eliminating or reducing watering during wet periods.
13. Supporting the connection of Soil Moisture Sensors to a conventional Irrigation System controller reduces Non-Essential Water Use.
14. The joint MPWMD/California American Water Rebate Program supports the MPWMD's Mission to manage, augment and protect water resources for the benefit of the community and the environment.

15. The joint MPWMD/California American Water Rebate Program supports the District's legislative function to conserve water.
16. This ordinance shall revise, amend and republish District Rule 11, Definitions, of the Rules and Regulations of the MPWMD.
17. This ordinance amends certain Rebate amounts and adds Rebates for certain water saving Irrigation System retrofits.
18. This ordinance incorporates the provisions of the Rebate Program enacted by MPWMD Ordinance No. 110 and Ordinance No. 127 into the District's Rules and Regulations.
19. This ordinance adds Rule 141, Water Conservation Rebates, to codify the procedures contemplated in Ordinance No. 110 and Ordinance No. 127.
20. This ordinance clarifies that Rebates shall be issued only for installation of Qualifying Devices on Sites located within the MPWMD that are served by Water Distribution Systems regulated by the District.
21. 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 **2007 Rebate Program Expansion 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 joint Monterey Peninsula Water Management District/California American Water Rebate Program as set forth in Ordinance Nos. 110 and 127. These ordinances were enacted to expand the standards for the toilet replacement Rebate Program originally set forth in Ordinance Nos. 85 and 88. This ordinance continues and expands the Rebate Program and incorporates the Rebate Program as Rule 141 in the District's Rules and Regulations.

The Rebate Program is designed to provide an incentive to encourage water saving retrofits that might not otherwise occur. 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

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. 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. ~~HOT WATER DEMAND PUMPING SYSTEM~~ – "~~Hot Water Demand Pumping System~~" shall mean a device or systems which is capable of supplying hot water at each hot water access point in the structure within ten (10) seconds of demand.
2. ~~LOW WATER-USE PLUMBING FIXTURES~~ - "~~Low Water-Use Plumbing Fixtures~~" shall mean toilets using a maximum of 1.6 gallons per flush; Showerheads, Rain Bars, or body sprays designed to emit a maximum of 2.5 gallons per minute of water; faucet aerators designed to emit a maximum of 2.2 gallons per minute; ~~ultra-low consumption dishwashers; ultra-low consumption washing machines;~~ and Instant-Access Hot Water Systems.

3. **REBATE PROGRAM** – *“Rebate Program” shall mean a program co-funded by the District and California American Water that provides economic incentives for the installation of Ultra-Low Consumption Technology.*
4. **SMART CONTROLLER** – *“Smart Controller” shall mean a weather-based device (typically a “timer”) that automatically controls an outdoor Irrigation System. Smart Controllers use weather, site or soil moisture data as a basis for determining an appropriate watering schedule. Smart Controllers (commonly referred to as ET controllers, weather-based irrigation controllers, smart sprinkler controllers, and water smart controllers) are a new generation of irrigation controllers that utilize prevailing weather conditions, current and historic Evapotranspiration, soil moisture levels, and other relevant factors to adapt water applications to meet the actual needs of the plants.*
5. **SOIL MOISTURE SENSOR** – *“Soil Moisture Sensor” shall mean a device used to measure soil moisture content, triggering a Smart Controller to water only when moisture levels recede to a level below that required to sustain Landscaping.*
6. **SENSOR-BASED IRRIGATION CONTROLLER** – *“Sensor-Based Irrigation Controller” shall mean a Smart Controller designed to use real-time measurements of one or more locally measured factors to adjust irrigation timing. The factors typically considered include: temperature, rainfall, humidity, solar radiation, and soil moisture. A Sensor-Based Irrigation Controller often has historic weather information (i.e. an ET curve) for the site location programmed into memory and then uses the sensor information to modify the expected irrigation requirement for the day.*
7. **SIGNAL-BASED IRRIGATION CONTROLLER** – *“Signal-Based Irrigation Controller” shall mean a signal-based Smart Controller that receives a regular signal of prevailing weather conditions via radio, telephone, cable, cellular, web, or pager technology. The signal typically comes from a local weather station (or series of weather stations) and usually updates the current Evapotranspiration rate to the controller.*

**Section Four:**            **Retroactive Rebates for Smart Controllers, Rain Sensors, and Soil Moisture Sensors**

Rebates enacted by this ordinance for Smart Controllers, Rain Sensors and Soil Moisture Sensors shall be available for purchases made on and after June 15, 2007, subject to the time limitation outlined in the Rebate Eligibility guidelines of Rule 141-D.

**Section Five:**                    **Addition of Rule 141 – Water Conservation Rebates**

- A. Rule 141 is taken from Ordinance No. 110 and Ordinance No. 127. Revisions are shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~).
- B. The title of existing Rule 141 – Definitions (for Regulation XIV) shall be changed to Rule 141 – Water Conservation Rebates.
- C. The following text shall be added as Rule 141 – Water Conservation Rebates. Text is relocated from Ordinance No. 110, adopted October 30, 2003 (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) and Ordinance No. 127 adopted January 25, 2007 (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). New language added by this ordinance is shown in *bold italics*:

**RULE 141 – WATER CONSERVATION REBATES**

A. REBATES

Rebates are available for completion of any of the following actions within the boundaries of the Monterey Peninsula Water Management District. The following is the list of Qualifying Devices:

- 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 *an Instant-Access Hot Water System* ~~a Hot Water Demand Pumping System~~;
- 5. Initial installation of a High Efficiency Toilet;
- 6. Initial installation of a Zero Water Consumption Urinal;

7. Initial installation of a Cistern to store water as a component of an Irrigation System. Maximum available Rebate shall be for 3,000 gallons of Cistern storage capacity on a Site;
8. *Initial installation of a Smart Controller;*
9. *Initial installation of a Rain Sensor appurtenant to a Smart Controller or to a conventional automatic Irrigation System controller;*
10. *Initial installation of Soil Moisture Sensors that control the irrigation cycles of a conventional automatic Irrigation System controller. Gypsum block Soil Moisture Sensors shall not be included on the list of Qualifying Devices.*

#### 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, except as allowed for related costs as provided below:

1. The Rebate for replacement of a non-Ultra-Low Flush Toilet with an Ultra-Low Flush Toilet 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 initial installation of a High Efficiency Toilet shall be ~~\$100~~ **\$150** per toilet or the actual cost per toilet, whichever is less.
3. The Rebate for an Ultra-Low Consumption Dishwasher shall be ~~\$100~~ **\$125** per appliance.
4. The Rebate for an Ultra-Low Consumption Washing Machine *with a maximum water usage of between 18.1 and 28 gallons per load* shall be ~~\$100~~ **\$150** per appliance.

5. The Rebate for an Ultra-Low Consumption Washing Machine *with a maximum water usage of 18.0 gallons per load* shall be ~~\$100~~ **\$200** per appliance.
6. The Rebate for installation of a ~~Hot Water Demand Pumping System~~ *recirculating Instant-Access Hot Water System* shall be ~~\$100~~ **\$200** per Site or the actual cost, whichever is less.
7. *The Rebate for installation of 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 Site.*
8. The Rebate for Zero Water Consumption Urinals shall be ~~\$100~~ **\$200** per ~~appliance~~ *urinal*.
9. *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.*
10. *The Rebate for a Rain Sensor attached to an Irrigation System controller shall be \$25 or the actual cost, whichever is less.*
11. *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.*
12. 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.

C. REBATE ELIGIBILITY

1. *Rebates shall be issued only for installation of Qualifying Devices 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. This includes but is not limited to:
  - a. Properties subject to Rule 142 (Plumbing Fixtures for New Construction), Rule 143 (Retrofit of Existing Commercial Uses) and Rule 144 (Retrofit Upon Change of Ownership or Use) at the time the Rebate application is processed.
  - b. Properties required to install Ultra-Low Flush Toilets as a condition of a water rationing variance (Rule 92).
3. No Rebate shall be issued for Ultra-Low Flush Toilets when the District's records indicate that a Water Permit was issued between 1985 and 1987 and a Connection Charge reduction occurred as a result of the Applicant's agreement to install Ultra-Low Flush Toilets.
4. Rebates shall be available only for the initial installation of Qualifying Devices.
5. Rebates shall be available for a maximum of twenty (20) toilets on a Non-Residential Site.
6. Rebates shall not be issued for more than 3,000 gallons of Cistern storage capacity on a Site.

D. CONDITIONS OF APPROVAL

1. Applications for Rebates shall be submitted within 90 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.*

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 toilet or other appliance installed, name of installer and receipt for the purchase of the appliance.

2. 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.
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 the addition of Rule 141 to the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This ordinance shall replace all previous District ordinances that pertain to the District's Rebate Program.

**Section Seven:        Effective Date**

This ordinance shall be given effect at 12:01 a.m. on September 20, 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 Foy, and second by Director Knight, the foregoing ordinance is adopted upon this 20th day of August, 2007, by the following vote:

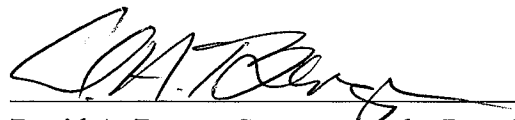
AYES:    Directors Foy, Knight, Lehman, Markey and Pendergrass

NAYS:    None

ABSENT: Directors Edwards and Potter

I, David A. Berger, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is an ordinance duly adopted on the 20th day of August, 2007.

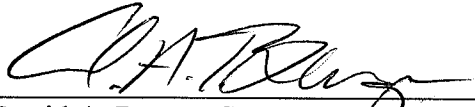
Witness my hand and seal of the Board of Directors this 12th day of February, 2008.

  
David A. Berger, Secretary to the Board

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**COPY CERTIFICATION**

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 Ordinance No. 129 duly adopted on the 20th day of August 2007.

  
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David A. Berger, Secretary to the Board

2-15-08  
Date