

Adopted on November 16, 2009 – Effective on January 1, 2010

**FINAL
ORDINANCE NO. 141**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING AND REVISING REGULATION XIV – WATER
CONSERVATION--TO UPDATE AND CLARIFY LANGUAGE AND ADD NON-
RESIDENTIAL AND LANDSCAPE WATER EFFICIENCY REQUIREMENTS**

FINDINGS

1. The Monterey Peninsula 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. New water conservation equipment and retrofits have become reasonably available since the District adopted its mandatory water conservation regulation in 1987 and since requirements for Visitor-Serving Facilities were added in 1997. This ordinance recognizes newer water conservation technology.
4. Water conservation is a necessary component to the management and protection of water resources on the Monterey Peninsula.
5. Counties and general law cities had until January 1, 1993 to adopt a water efficient landscape ordinance or to adopt findings explaining why a local ordinance was unnecessary. If a county or city failed to adopt either the ordinance or the findings, then state law required local officials to enforce the Department of Water Resources (DWR) model ordinance as if it had been adopted by the county or city (AB 350, Clute, 1990).
6. In 2004, the Legislature asked the California Urban Water Conservation Council to convene a task force and recommend improvements to DWR's model local water efficient landscape ordinance (AB 2717, Laird, 2004). The resulting report, Water Smart Landscapes for California, offered 43 recommendations.
7. By January 1, 2009, Assembly Bill 1881 required DWR to update the model water efficient landscape ordinance based on the recommendations of the report commissioned

by the Legislature in 2004. AB 1881 required the model ordinance to cover 13 topics, with special exceptions for cemeteries.

8. The revised Model Water Efficient Landscape Ordinance was approved by the State of California's Office of Administrative Law (OAL) on September 10, 2009.
9. By January 1, 2010, every county and city (including charter cities) must adopt either the Model Water Efficient Landscape Ordinance, or a water efficient landscape ordinance that is at least as effective as the model ordinance. If a county or city fails to adopt an ordinance, AB 1881 requires local officials to enforce DWR's model ordinance as if it had been adopted by the county or city.
10. By January 31, 2010, counties and cities must report to DWR on whether they have adopted the Model Water Efficient Landscape Ordinance or their own ordinances. By January 31, 2011, DWR must report to the Legislature on the status of these local ordinances.
11. The District recognizes that additional water conservation is essential to meet the reductions imposed by the California State Water Resources Control Board Order No. WR 95-10. This ordinance increases water conservation on the Monterey Peninsula to provide additional conservation savings to maintain water use within the limits set by Order No. 95-10.
12. The District recognizes that additional water conservation is necessary to meet the reductions mandated by the Seaside Basin Adjudication decision.
13. This ordinance revises and clarifies Regulation XIV, which was adopted in July 1987. The language of the Regulation has been essentially unchanged since that time and is outdated.
14. This ordinance adopts the provisions of AB 1881 and the California Model Water Efficient Landscape Ordinance and additional outdoor water use measures that reduce outdoor consumption.
15. This ordinance shall amend Rules 11, 140, 142, 143, 144, 145, and delete Rules 147, 148, 149, 150, 151, 152, and 153, and republish Rule 11, Regulation XI, Regulation XIV and of the Rules and Regulations of the Monterey Peninsula Water Management District.
16. This ordinance is exempt from the California Environmental Quality Act. A Notice of Exemption citing a Categorical Exemption under Class I, §15301 was filed with the County Recorder.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the MPWMD 2009 Commercial/Industrial/Institutional Water Conservation Ordinance.

Section Two: Purpose

This ordinance clarifies and updates Regulation XIV of the Monterey Peninsula Water Management District Rules and Regulations. This ordinance adds definitions to the Rules and Regulations of the District and amends the mandatory retrofit and messaging requirements for Non-Residential uses. This ordinance updates conservation requirements to comply with current state and federal flow rate standards, including California's Model Water Efficient Landscape Ordinance. Finally, this ordinance encourages efficient water use by recommending and/or requiring water efficient devices and retrofits that do not affect District Rule 25.5, Table 4: Ultra-Low Consumption Appliance Credits.

Section Three: Amendment of Rule 11, Definitions

District Rule 11, Definitions, and any reference to these terms throughout the Rules and Regulations of the District shall be amended as follows, where the portion set forth in strikethrough type (~~strikethrough~~) is deleted and the portion set forth in italicized and bold face type (**bold face**) is added. Additional words used in this ordinance are defined in Rule 11.

1. BEST MANAGEMENT PRACTICES (BMP)– ~~“Best Management Practices (BMP)” or “BMP” shall mean industry-specific water conservation practices, retrofits, equipment and facilities recognized by the District and approved by the Board of Directors~~ ***a conservation measure or series of measures that is useful, proven, cost-effective, and generally accepted among conservation experts to reduce water consumption and protect water quality.***
2. ***CONSORTIUM FOR ENERGY EFFICIENCY*** – ***“Consortium for Energy Efficiency” (CEE) shall refer to the nonprofit public benefits corporation that develops initiatives for its North American members to promote the manufacture and purchase of energy-efficient products and services. CEE members include utilities, statewide and regional market transformation administrators, environmental groups, research organizations and state energy offices in the U.S. and Canada. Also contributing to the collaborative process are CEE partners – manufacturers, retailers and government agencies. The U.S. Department of Energy and Environmental Protection Agency both provide support through active participation as well as funding.***
3. ***COOLING TOWER*** – ***“Cooling Tower” shall mean a heat rejection device which regulates temperature by dissipating heat from recirculating water used***

to cool chillers, air-conditioning equipment, or other process equipment. Heat is rejected from the tower primarily through evaporation. The generic term "Cooling Tower" is used to describe both direct (open circuit) and indirect (closed circuit) heat rejection equipment.

4. **DAY SPA** – *"Day Spa" shall mean an establishment that provides basic services such as manicures, massages, facials, tanning services, waxes, and other "dry" services. Other "wet" services that may be available in a spa establishment may include hydrotherapy treatments, including vichy showers, multiple showerheads, body spray jets, etc. Other water treatments, scrubs, mud treatments, wraps, and baths are also provided.*
5. **GRAYWATER** -- *"Graywater" shall mean untreated waste water which has not come into contact with toilet waste. Graywater includes used water from bathtubs, showers, bathroom wash basins, clothes washing machines and laundry tubs. It does not include waste water from kitchen sinks and dishwashers, photo lab sinks, or laundry water from soiled diapers. "Graywater" shall have the same meaning as "Greywater."*
6. **HIGH EFFICIENCY COMMERCIAL DISHWASHER** – *"High Efficiency Commercial Dishwasher" shall mean a commercial Dishwasher that meets or exceeds the High Efficiency Specifications for Commercial Dishwashers as determined by the Consortium for Energy Efficiency (CEE)) and as listed on the CEE website.*
7. **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 1.283 gallons.*
8. **HIGH EFFICIENCY URINAL** – *"High Efficiency Urinal" shall mean a Urinal designed to flush with a maximum of 0.5 gallon per flush.*
9. **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; and Instant Access Hot Water Systems refer to the water efficiency standards set forth in Regulation XIV, Water Conservation.~~*
10. **PINT URINAL** – *"Pint Urinal" shall mean a mean a Urinal designed and manufactured with a maximum of one pint (0.125 gallons per flush) of water.*

11. **ROTATING SPRINKLER NOZZLE** – *“Rotating Sprinkler Nozzle” shall mean a multi-trajectory, revolving stream spray head that applies Irrigation System water at a slower rate and more uniformly than conventional sprays.*
12. **SINGLE PASS COOLING SYSEM** – *“Single Pass Cooling System” shall mean a single pass of water to cool equipment discharging the resultant warm water to the sanitary sewer. This type of system is also known as a “once through cooling system.”*
13. **ULTRA-LOW CONSUMPTION HIGH EFFICIENCY DISHWASHER** - *“High Efficiency Ultra-Low-Consumption Dishwasher” shall mean a Dishwasher designed to use a maximum of 7.66 5.8 gallons during every complete per cycle. A High Efficiency Dishwasher shall have Energy Star certification.*
14. **ULTRA-LOW CONSUMPTION HIGH EFFICIENCY WASHING MACHINE CLOTHES WASHER** - *“Ultra-Low-Consumption High Efficiency Clothes Washer (or HEW) Washing Machine” shall mean a Washing Machine Clothes Washer designed to use a maximum of 28 gallons during every complete cycle with a Water Factor of 5.0 or less.*
15. **WATER EFFICIENT ICE MACHINE** – *“Water Efficient Ice Machine” shall mean a commercial ice machine that meets or exceeds Energy Star standards for air-cooled ice machines.*
16. **WATER EFFICIENT PRE-RINSE SPRAY VALVE** – *“Water Efficient Pre-Rinse Spray Valve” shall mean a handheld device that uses a spray of water to remove food waste from dishes prior to cleaning in a commercial Dishwasher and that has a cleaning time of 26 seconds or less at 1.6 gallons per minute (at 60 psi). Pre-rinse spray valves consist of a spray nozzle, a squeeze lever that controls the water flow, and a dish guard bumper. Models may include a spray handle clip, allowing the user to lock the lever in the full spray position for continual use. Pre-rinse spray valves are usually placed at the entrance to a commercial Dishwasher and can also be located over a sink, in conjunction with a faucet fixture.*
17. **WATER FACTOR** – *“Water Factor” shall mean a rating of water efficiency established by the U.S. Environmental Protection Agency and the U.S. Department of Energy through the Energy Star program. The Water Factor is the number of gallons per cycle per cubic foot that the Clothes Washer uses. The lower the Water Factor, the more efficient the washer is. So, if a Clothes Washer uses 30 gallons per cycle and has a tub volume of 3.0 cubic feet, then the Water Factor is 10.0.*

18. ***WEATHER BASED IRRIGATION CONTROLLER*** – “*Weather Based Irrigation Controller*” shall mean an Irrigation System controller that evaluates local weather conditions and Evapotranspiration (ET) rates to create a site-specific irrigation schedule.

Section Four: Deletion of Rule 140, Purpose

District Rule 140, Purpose, shall be deleted in its entirety:

RULE 140 - PURPOSE

~~It is the purpose and intent of this regulation to reduce use of Potable water within the Monterey Peninsula Water Management District boundaries.~~

Section Five: Amendment of Rule 142, Plumbing Fixtures for New Construction

District Rule 142, Plumbing Fixtures for New Construction, shall be amended as follows, where the portion set forth in strikeout type (~~strikeout~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

RULE 142 PLUMBING FIXTURES FOR NEW CONSTRUCTION WATER EFFICIENCY STANDARDS

- A. ***Water Efficiency Standards.*** ~~All New Construction, as defined in Rule 11 herein, shall be exclusively equipped with Low water Use plumbing fixtures, as defined by Rule 11 this ordinance, and shall further use Washbasin faucet aerators with a maximum flow rate of 2.25 gallons per minute wherever feasible. These fixtures~~ ***All New Construction of New Structures*** shall be installed and maintained ***plumbing fixtures and conservation standards as set forth in this Rule.*** ~~No plumbing fixture or standard,~~ and shall not be replaced with fixtures which allow greater water use.
- B. ***Effective Date.*** *Water Permits issued after January 1, 2010 shall be subject to the requirements of Rule 142, as revised. Water Permits issued prior to January 1, 2010, and applications for a Water Permit that can demonstrate proof of submittal of the project application to the Planning Department or Building Department of the Jurisdiction by December 31, 2009, shall be subject to requirements of former Rule 142 summarized below:*
1. ***Former Rule 142 required all New Construction, Remodels and Additions to install maximum 2.5 gallons-per-minute Showerheads and 2.2 gallons-per-minute faucet aerators.***

2. *New Construction of New Structures also required installation of Instant-Access Hot Water Systems and installation of Drip Irrigation where appropriate.*

C. *Residential Water Efficiency Standards for New Structures.*

All Residential New Structures receiving a Water Permit on or after January 1, 2010, shall meet or exceed the following standards:

1. *Ultra-Low Flush Toilets shall be installed;*
2. *Urinals, when installed in a Residential use, shall be designed to flush with one (1) gallon of water;*
3. *Showerheads, Rain Bars, or Body Spray Nozzles shall be installed that were designed to emit a maximum of 2.0 gallons per minute of water;*
4. *All shower fixtures should be equipped with scald protection valves rated for 2.0 gallons per minute Showerheads;*
5. *Installation of multiple Showerheads in one stall shall require timers for each Showerhead, Rain Bar, or Body Spray Nozzle. No timer shall operate with greater than a three (3) minute operating increment;*
6. *Lavatory Sink faucets shall emit a maximum of 2.2 gallons of water per minute at 60 psi;*
7. *Kitchen Sink faucets shall emit a maximum of 2.2 gallons of water per minute at 60 psi;*
8. *Instant-Access Hot Water Systems shall be installed;*
9. *All hot water pipes shall be insulated;*
10. *Sodium chloride (salt) water softeners shall be discouraged in New Construction. Alternate technologies such as potassium chloride shall be recommended. When a sodium chloride water softener is to be installed within the MPWMD, the unit shall use demand-initiated regeneration which senses when the resin must be recharged, either electronically or with a meter that measures and calculates usage. This requirement shall be specified on the Construction Drawings;*
11. *Landscaping.*

- a. *All New Construction shall install and maintain Landscaping that complies with the California Model Water Efficient Landscape Ordinance as revised (California Code of Regulations, Title 23, Water, Division 2, Department of Water Resources, Chapter 2.7, Model Water Efficient Landscape Ordinance) or with local or District Landscape requirements if more restrictive;*
- b. *Plants shall be grouped in hydrozones;*

12. Irrigation System Efficiency.

- a. *Weather-Based Irrigation System Controllers (e.g. Smart Controllers) shall be installed, used and maintained on Sites where there is an Irrigation System.*
- b. *Weather-Based Irrigation System Controllers shall include functioning Soil Moisture Sensors and a Rain Sensor as components of the system.*
- c. *Drip Irrigation shall be utilized for watering all non-turf irrigated plantings.*
- d. *Rotating Sprinkler Nozzles shall be utilized for turf irrigation.*
- e. *Overhead spray irrigation shall not be used to water non-turf Landscaping, including trees and shrubs.*
- f. *Irrigation Systems shall operate with at least 70 percent efficiency.*
- g. *Rainwater collection/irrigation systems are encouraged to supplement irrigation for new Landscaping. New Structures shall be encouraged to include one or more rainwater Cisterns and a system to provide at least 75 percent of exterior irrigation during normal rainfall years. Systems must be compliant with local catchment system standards.*
- h. *Graywater collection/irrigation systems are encouraged to supplement irrigation for new Landscaping. Systems must be compliant with local catchment system standards, including Monterey County Department of Environmental Health.*

- i. *All Sites utilizing a Graywater reuse system shall install and maintain a backflow prevention device as required by any Water Distribution System Operator that supplies water to the Site.*

D. Non-Residential Water Efficiency Standards for New Structures

All Non-Residential New Structures receiving a Water Permit on or after January 1, 2010, shall meet or exceed the following standards:

1. *Ultra Low Flush Toilets shall be installed;*
2. *Urinals shall be Pint Urinals or Zero Water Consumption Urinals and shall be clearly specified on the final Construction Drawings. Zero Water Consumption Urinals shall be encouraged in settings where there is a regular maintenance staff;*
3. *Showerheads, Rain Bars, or Body Spray Nozzles shall be installed that were designed to emit a maximum of 2.0 gallons per minute of water;*
4. *All shower fixtures should be equipped with scald protection valves rated for 2.0 gallons per minute Showerheads;*
5. *Installation of multiple Showerheads in one stall shall require timers for each Showerhead, Rain Bar, or Body Spray Nozzle. No timer shall operate with greater than a three (3) minute operating increment;*
6. *Public lavatory faucets shall emit a maximum of 0.5 gallon of water per minute at 60 psi;*
7. *Public Lavatory Sinks equipped with automatic shut off devices or sensor faucets shall operate with a maximum flow of 0.25 gallons per cycle;*
8. *High Efficiency Clothes Washers shall be installed when a Clothes Washer is installed in a New Structure permitted under this Regulation;*
9. *High Efficiency Dishwashers or High Efficiency Commercial Dishwashers shall be installed and maintained on the Site when a Dishwasher is installed in a New Structure permitted by a Water Permit;*
10. *Instant-Access Hot Water System(s) shall be installed for hot water access points to ensure that hot water is available within ten (10) seconds;*
11. *All hot water pipes shall be insulated;*

12. *Sodium chloride (salt) water softeners shall be discouraged in New Construction. Alternate technologies, such as potassium chloride shall be recommended. When a sodium chloride water softener is to be installed within the MPWMD, the unit shall use demand-initiated regeneration which senses when the resin must be recharged, either electronically or with a meter that measures and calculates usage. This requirement shall be specified on the Construction Drawings;*
13. *Water Efficient Pre-Rinse Spray Valves shall be utilized when a pre-rinse spray valve is installed;*
14. *There shall be no single-pass water use systems in ice machines, hydraulic equipment, refrigeration condensers, X-ray processing equipment, air compressors, vacuum pumps, etc. Air-cooled or better technology shall be installed when available;*
15. *Water cooled refrigeration equipment shall be prohibited when there is alternative cooling technology available at the time the Water Permit is issued;*
16. *Cooling Towers shall be equipped with conductivity controllers that are used to increase the number of cycles that can be achieved;*
17. *Boilerless steamers or connectionless steamers shall be installed in place of boiler-based steamers when a steamer is installed in New Construction;*
18. *Landscaping.*
 - a. *All New Construction shall install and maintain Landscaping that complies with the California Model Water Efficient Landscape Ordinance as revised (California Code of Regulations, Title 23, Water, Division 2, Department of Water Resources, Chapter 2.7, Model Water Efficient Landscape Ordinance) or with local or District Landscape requirements if more restrictive;*
 - b. *Plants shall be grouped in hydrozones;*
19. *Irrigation System Efficiency.*
 - a. *Weather-Based Irrigation System Controllers shall be installed, used and maintained on Sites where there is an Irrigation System.*

- b. *Weather-Based Irrigation System Controllers shall include functioning Soil Moisture Sensors and a Rain Sensor as components of the system.*
 - c. *Drip Irrigation shall be utilized for watering all non-turf irrigated plantings.*
 - d. *Rotating Sprinkler Nozzles shall be utilized for turf irrigation.*
 - e. *Overhead spray irrigation shall not be used to water non-turf Landscaping, including trees and shrubs.*
 - f. *Irrigation Systems shall operate with at least 70 percent efficiency.*
 - g. *Rainwater collection/irrigation systems are encouraged to supplement irrigation for new Landscaping. New Structures shall be encouraged to include one or more rainwater Cisterns and a system to provide at least 75 percent of exterior irrigation during normal rainfall years. Systems must be compliant with local catchment system standards.*
 - h. *Graywater collection/irrigation systems are encouraged to supplement irrigation for new Landscaping. Systems must be compliant with local catchment system standards, including Monterey County Department of Environmental Health.*
 - i. *All Sites utilizing a Graywater reuse system shall install and maintain a backflow prevention device as required by any Water Distribution System Operator that supplies water to the Site.*
20. *The implementation of water conservation Best Management Practices shall be integrated into construction and operation of the project to the extent possible.*

E. Residential and Non-Residential Change of Ownership, Change of Use, and Expansion of Use Water Efficiency Standards

Sites that have a Change of Ownership, Change of Use or Expansion of Use on or after January 1, 2010, shall meet or exceed the following standards:

- 1. *Ultra Low Flush Toilets shall be installed;*
- 2. *Urinals shall be designed to use a maximum of one (1) gallon per flush. Zero Water Consumption Urinals shall be encouraged in settings where there is a regular maintenance staff;*

3. *Showerhead flow rates shall meet or exceed New Construction standards;*
4. *Bathroom faucet flow rates shall meet or exceed New Construction standards;*
5. *Kitchen faucet flow rates shall meet or exceed New Construction standards;*
6. *Remodels or relocations of water fixtures or appliances that involve hot water shall be encouraged to install an Instant-Access Hot Water System and insulate all new hot water pipes;*
7. *Pre-rinse spray valves shall be meet or exceed the District's definition for Water Efficient Pre-Rinse Spray Valves;*
8. *Changes of Use and Expansions of Use that require a Water Permit shall not install any single-pass water use systems in ice machines, hydraulic equipment, refrigeration condensers, X-ray processing equipment, air compressors, vacuum pumps, etc. Air-cooled or better technology shall be installed when available.*
9. *Changes of Use and Expansions of Use that require a Water Permit shall not install any water cooled refrigeration equipment when there is alternative water efficient cooling technology available at the time the Water Permit is issued;*
10. *Automatic Irrigation Systems, with the exception of Weather-Based Irrigation Systems, shall be retrofit to include a Rain Sensor;*
11. *The implementation of Non-Residential Best Management Practices shall be integrated into construction and operation of Non-Residential uses to the extent possible.*

Section Six: **Amendment of Rule 143, Retrofit of Existing Commercial Uses**

District Rule 143, Retrofit of Existing Commercial Uses, shall be amended as follows, where the portion set forth in strikeout type (~~strikeout~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

RULE 143 - RETROFIT OF WATER EFFICIENCY STANDARDS FOR EXISTING NON-RESIDENTIAL COMMERCIAL USES

- A. ~~All Non-Residential Water Users within the District, including existing hotels, motels, other Commercial, and Industrial Uses, on or before March 1, 1988, shall retrofit all shower and Washbasin faucet plumbing fixtures which are installed, but which do not meet Low Water Use Plumbing Fixture standards, with~~ *maintain* Showerheads with a maximum flow capacity of 2.5 gallons per minute (gpm), and Washbasin faucets with aerators which limit the flow rate to a maximum of 2.5 ~~gpm~~ *gallons per minute, unless subject to more restrictive requirements by another agency or Jurisdiction*. Further, ~~all toilets which exceed 3.4 gallons per flush shall be installed with toilet water use reduction devices capable of reducing flow by at least 1.0 gallon per flush.~~
- B. All existing Visitor-Serving Facilities shall, ~~before December 31, 2000,~~ be retrofitted exclusively with Ultra-Low Flush Toilets, except as provided by Rule 146 (*Discretionary Exemptions*).
- C. *Replacement of Ultra-Low Flush Toilets after January 1, 2014 shall be with High Efficiency Toilets;*
- D. *All Visitor-Serving Facilities shall, by December 31, 2012, be retrofitted exclusively with High Efficiency Urinals, High Efficiency Clothes Washers, and Water Efficient Ice Machines. There shall be an exception to this Rule when the Clothes Washer meets Energy Star specifications and was purchased and installed between January 1, 2007 and January 1, 2010: These appliances must comply with this provision by January 1, 2020;*
- E. *All Non-Residential structures shall be retrofitted exclusively with High Efficiency Toilets by December 31, 2012, except as provided by Rule 146 (Discretionary Exemptions).*
1. *All Visitor-Serving Facilities that retrofit to 1.6 gallons-per-flush toilets pursuant to Rule 143-B shall be exempt from this requirement until January 1, 2020.*
 2. *All Non-Residential uses with Ultra Low Flush Toilets installed prior to January 1, 2010, shall be exempt from this requirement until January 1, 2020.*
- F. *All Non-Residential laundries shall operate exclusively with High Efficiency Clothes Washers rated with a Water Factor of 5.0 or below by December 31, 2012. There shall be an exception to this Rule when the existing appliance was purchased between January 1, 2006 and January 1, 2010 and rates a Water Factor of 5.1-6.0: These appliances must comply with this provision by January 1, 2020;*

- G. *Non-Residential Car Washes. By December 31, 2012, all Non-Residential car wash facilities shall recycle and reuse a minimum of 50 percent of the water used in the wash and rinse cycles.*
- H. *Mobile Water Distribution Systems shall use water meters at the Source of Supply. Records of the location and quantity of water delivered shall be provided by the Owner or Operator to MPWMD upon request of the General Manager.*
- I. *Any or all portable Water- Measuring Device usage information, including the name of the User, the amount of water used, and the location of use shall be provided by the Water Distribution System Owner or Operator to MPWMD upon request.*
- J. *All pre-rinse spray valves shall meet or exceed the Rule 11 definition of Water Efficient Pre-Rinse Spray Valve by July 1, 2010;*
- K. *Newly installed medical or laboratory photographic and/or X-ray processing systems shall include a recirculation system for the rinse process. The use of digital systems is highly encouraged;*
- L. *The installation of a Rain Sensor and Soil Moisture Sensors on automatic Irrigation Systems that are not operated by a Weather-Based Irrigation System shall be encouraged.*

Section Seven: Amendment of Rule 144, Retrofit Upon Change of Ownership or Use

District Rule 144, Retrofit Upon Change of Ownership or Use, shall be amended as follows, where the portion set forth in strikeout type (~~strikeout~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

RULE 144 RETROFIT UPON CHANGE OF OWNERSHIP OR USE

A. MANDATORY RETROFIT UPON CHANGE OF OWNERSHIP OR USE

All plumbing fixtures in Existing Structures, including Residential ~~commercial, industrial, and public authority~~ ***and all Non-Residential*** structures, shall, at the time of Change of Ownership or Change of Use, ~~be retrofitted, if not already so, exclusively with low water use plumbing fixtures~~ ***and comply with as define by Rule 142 and Rule 143 this ordinance.*** These fixtures shall be installed and maintained, and shall not be replaced with fixtures which allow greater water use.

B. MANDATORY RETROFIT UPON EXPANSION OF USE

~~All Rresidential, commercial, Ppublic Aauthority, and industrial reconstruction, Rremodels or Aadditions that add~~ **The addition of any Bbathroom(s), toilet and/or increase in floor area of Existing Structures by twenty-five percent (25%) or greater of the existing floor area shall meet "New Construction" Hlow wWater-uUse pPlumbing fFixture-the Low Water Use Plumbing Fixtures and standards described in -as listed defined by Rule 142 and Rule 143 Rule 11** for the entire facility, including retrofitting of plumbing fixtures within Existing Structures **throughout the Site.**

C. RETROFIT EXEMPTION

(Rule deleted by Ordinance No. 89 (7/21/97)

D. PROOF OF RETROFIT UPON CHANGE OF OWNERSHIP OR CHANGE OF USE

~~Before the transfer of title for any Change of Ownership or Change of Use, defined by Rule 11, of real property within the District, the selling owner(s) or his authorized agent shall, in the form and manner specified by the District General Manager, certify compliance with the retrofit requirements of this Rule regulationordinance by one of the following methods:~~

- ~~1. — Certify that the plumbing permit obtained in relation to plumbing fixture installation shows compliance with this regulationordinance. This certification shall be forwarded to the District; or~~
1. ***Provide the District with*** ~~Certify that an District-certified inspection report or other appropriate report (the General Manager shall maintain a list of individuals qualified to provide this report) which~~ ***that provides all Site information required by the District and that*** verifies installation of Low Water Use Plumbing Fixtures throughout the structure, as required by this ~~Rregulation XIV and Regulation XV ordinance. This certification shall be forwarded to the District; or~~
2. ***Provide eertify documentation to the District that the building inspection by from the a District-certified city or county building official that indicates provides all Site information required by the District and that certifies*** installation of Low Water Use Plumbing Fixtures throughout the structure, as required by this ~~Rregulation XIV and Regulation XV ordinance. This certification shall be forwarded to the District; or~~
3. ***Provide owner certification*** ~~Certify that plumbing fixtures throughout the structure have been retrofitted in compliance with Regulation XIV and Regulation XV ordinance. The buyer or seller shall forward a A-copy of this certification, together with a dated copy of the purchase receipt for~~

each Low Water-Use **Plumbing** Fixture, and a *dated* copy of the labor contract, or *a* statement of self-installation, which evidences complete installation, shall be forwarded to the District by the buyer or seller. *The District may verify owner certification by an onsite inspection; or*

4. The General Manager may *conditionally* waive ~~extend~~ the proof of retrofit before close of escrow requirement of this section where the seller, and buyer, *or tenant* certifies that the structure will begin to be Remodeled or modified within one hundred and twenty (120) days of the *Change of Ownership or Change of Use* close of escrow, that the structure will *comply with Regulation XIV* be exclusively retrofitted with Low Water-Use Plumbing Fixtures upon completion of construction, and the *District* new owner shall *be both contacted and* allowed inspection of the property by District staff or its authorized agent *within 180 days (i.e. six months) of the date of this requirement. Incremental extensions of 90 days may be allowed until completion of the Remodel or modification.*

It shall be a violation of this Regulation ordinance for any buyer or seller to instruct an escrow agent to close escrow for any sale of property in the District which *that* does not comply with Subdivision D of this Rule.

This Subdivision D shall not impose any affirmative or discretionary duty upon an escrow agent, acting in the capacity of escrow officer. Nothing in this **Rule** ~~regulation~~ shall be construed, either expressly or by implication, to provide for a criminal proceeding or create a civil liability against a title insurer or an underwritten title company, as defined in the California Insurance Code, or their officers, directors, or employees, by reason of an alleged violation of this **Rule** ordinance by a party or parties to an escrow at such a corporation.

E. ~~PROOF OF RETROFIT UPON CHANGE OF USE~~

~~Prior to the Change of Use of any Residential, commercial, industrial, or Public Authority buildings, the owner of record or his agent shall certify in writing to the Monterey Peninsula Water Management District that prior to such Change of Use of the structure, the owner has complied with this regulation, including all plumbing fixture retrofitting requirements. Change of Use of such buildings made prior to submission of such written certification to the General Manager shall constitute a violation of this regulation.~~

Section Eight: **Amendment of Rule 145, Recordation of Notice**

District Rule 145, Recordation of Notice, shall be deleted from Regulation XIV and relocated as Rule 116, Recordation of Notice, and shall be amended as follows, where the portion set forth in strikeout type (~~strikeout~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

RULE 145 116 - RECORDATION OF NOTICE

Whenever the General Manager determines that ***a violation of any District Rule or Regulation has occurred on a Site and has not been corrected within thirty (30) days of notification of such violation***, ~~Low Water Use Plumbing Fixtures have not been installed at the time of Change of Ownership or Use or when installed pursuant to the mandatory provisions of this regulation have been removed since initial installation~~, the General Manager may record a ***Nnotice of Non-Compliance on the title of the property*** of violation with the office of the ~~Ceounty Rrecorder~~ ***and may initiate enforcement action as authorized in Regulation XI***. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated, and any other person responsible for the violation, shall be notified of the recordation if their address is known. The owner of record shall have ninety (90) days to take corrective action. Failure to take corrective action within ninety (90) days shall constitute a violation of this MPWMD Rules and ~~Rregulations~~. The General Manager shall cause a ~~Nnotice of correction~~ ***Compliance*** to be recorded at such time as the property owner has established full compliance with the provisions of this ***these Rules and Rregulations***.

Section Nine: Amendment of Rule 146, Discretionary Exemptions

District Rule 146, Discretionary Exemptions, shall be amended as follows, where the portion set forth in strikeout type (~~strikeout~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

RULE 146 - DISCRETIONARY EXEMPTIONS

The General Manager may, in his discretion, exempt facilities from the provisions of this Regulation, or impose reasonable conditions in lieu of compliance therewith, if he determines that any of the following sections apply:

A. HARDSHIP

The General Manager may grant an exemption for hardship where the requirements of this Regulation would cause an unnecessary and undue substantial hardship upon the owner, or purchaser of the facility, or the public. Substantial hardship ***shall be determined on a case by case basis and*** may include, but is not limited to:

1. Plumbing in an existing facility which does not match connections with Low Water Use Plumbing Fixtures and would, therefore, requires partial

or complete replumbing of the structures. For example, different rough-in dimensions *for which no compatible complying fixture is available*.

2. Unavailability of Low Water Use Plumbing Fixtures to match a well-defined historic architectural style (i.e., Victorian, Mission Revival) in a locally, state or federally recognized building of historic significance, fitted *exclusively throughout* with authentic plumbing fixtures *from that period*. ~~Any project exempted pursuant to Sub-part A-1 of this part shall be required to have installed toilets using a maximum of 3.5 gallons per flush and 2.5 gallon per minute Showerheads, if not already so provided.~~

B. EMERGENCY

The General Manager may grant an exemption *from this Regulation* for emergency purposes when the requirements of this Regulation would create a condition affecting the health, sanitation, fire protection or safety of the facility owner or the public. Emergency conditions include, but are not limited to, sewer line grades that are insufficient to accommodate reduced flows caused by conversion of *high flow toilets with Ultra-Low Flush Toilets or High Efficiency Toilets* ~~water closet(s) to 1.5 gallon flush as determined attested to~~ by the city, county, or sanitary district engineer. *All requests for exemptions from this Regulation shall be in writing.*

C. IN LIEU COMPLIANCE

The General Manager may grant an exemption by imposing reasonable conditions in lieu of compliance with the requirements of this Regulation, where the condition would ~~not allow the quantity of water consumed by the facility to exceed the total water demand achieved if the~~ *achieve water savings similar to the efficiency* ~~Low Water Use Plumbing Fixture standards set by this Regulation had been used, and~~ *where an exemption or condition* would not otherwise adversely affect service to any existing water consumer.

D. RETROFIT EXEMPTIONS

~~When the~~ General Manager shall *has deferred* the retrofit requirement of this Regulation for any plumbing fixture for which ~~present~~ technology is *or was* not available to cause the required flow reduction, such as in flushometer-style *or blow out* toilet fixtures, or where retrofitting is not otherwise feasible; ~~When feasible,~~ retrofit shall be required at the time technology becomes available *when action is triggered by another qualifying event under Regulation XIV or Regulation XV.*

Section Ten: Deletion of Rule 147, Appeals

District Rule 147, Appeals, shall be deleted in its entirety. The appeal process is detailed in Regulation VII.

~~RULE 147 – APPEALS~~

~~A. — CONTENT OF APPEAL~~

~~An appeal may be made to the Board of Directors by any public agency or Person aggrieved by a decision of the General Manager pursuant to this regulation. All appeals shall be pursuant to Regulation VII of the District's Rules and Regulations. The appellant must state in the appeal:~~

- ~~1. The identity of the appellant and his interest in the decision;~~
- ~~2. General Manager's decision, or the conditions which are being appealed;~~
- ~~3. A clear, complete, but brief statement of the reasons why the appellant feels the decision or the conditions imposed were unjustified or inappropriate (this should include reasons the appellant disagrees with the findings of the General Manager and specific facts in sufficient detail to notify interested persons of the nature of the appeal). The Board will not accept an appeal stated in generalities.~~

~~B. — ACCEPTANCE OF APPEAL~~

~~An optional form for giving notice of appeal shall be provided by the General Manager. The form need not be used if the notice of appeal is complete. An appeal shall not be accepted by the Board of Directors unless it is complete and complies with all requirements. The General Manager shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete. If the General Manager rejects a notice of appeal, he shall inform the appellant of the nature of the deficiency, and shall identify the information necessary to complete the appeal.~~

Section Eleven: Deletion and Relocation of Rule 148, Penalties

District Rule 148, Penalties, shall be deleted from Regulation XIV and added as Rule 115, and shall be amended as follows, where the portion set forth in ~~strikeout type~~ (~~strikeout~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

~~RULE 110 148 – PENALTIES GENERAL ENFORCEMENT~~

- E.*** Any Person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of ***this these Rules and R***egulations; or, any contractor who installs or removes

plumbing fixtures contrary to the provisions of this *these Rules and Regulations* with the intent to defeat the purposes of this *these* regulations, shall be guilty of a misdemeanor punishable as an infraction as provided by Section 256 of the Monterey Peninsula Water Management District Law, Statutes of 1981, Chapter 986. Violations carry a maximum penalty of \$250 for each offense. Each separate day or portion thereof during which any violation occurs or continues without a good-faith effort by the Responsible Party to correct the violation, shall be deemed to constitute a separate offense, and upon conviction thereof, shall be separately punishable.

Section Twelve: **Deletion of Rule 149, Enforcement**

District Rule 149, Enforcement, shall be deleted from Regulation XIV. Enforcement is detailed in Regulation XI.

RULE 149— ENFORCEMENT

~~The General Manager shall be the officer primarily charged with enforcement of this regulation. All public employees of the Monterey Peninsula Water Management District who are vested with the duty or authority to issue Permits or licenses, shall conform to the provisions of this regulation, and shall issue no such Permits or licenses in conflict with the provisions of this regulation, and any such Permits, licenses, or uses, if issued in conflict with the provisions of this regulation, shall be null and void.~~

Section Thirteen: **Deletion of Rule 150, Civil Nuisance**

District Rule 150, Civil Nuisance, shall be renumbered as Rule 110-E.

RULE 150— E. CIVIL NUISANCE

- A1** Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, maintained, sold, or the use of which is changed, contrary to the provisions of **these Rules and Regulations**, and/or any use of any land, building, or premises, established, conducted, operated, or maintained contrary to the provisions of **these Rules and Regulations**, shall be, and the same is hereby declared to be a violation of **these Rules and Regulations** and a public nuisance.
- B2.** The District may summarily abate the public nuisance, and the Board of Directors or District Attorney may cause or maintain a civil suit or other action, to enjoin or abate the nuisance.
- €3.** Each day any violation of this regulation continues shall be regarded as a new and separate offense. The remedies provided in this regulation shall be cumulative and not exclusive.\

- D4. Should any Person, firm, or corporation violate the terms of this regulation, and any action is authorized either by the Board of Directors, or District Attorney, or is in fact commenced, no other action shall be taken on any application filed by or on behalf of said Person, firm, or corporation until the action has been concluded or resolved.

Section Fourteen: Deletion of Rule 151 Cost of Enforcement

District Rule 151 Cost of Enforcement, shall be deleted from Regulation XIV. Enforcement is detailed in Regulation XI.

RULE 151 – COST OF ENFORCEMENT

- A. ~~Any Person, firm, or corporation who creates or maintains a public nuisance in violation of this regulation or upon whose property a notice of violation has been recorded, shall, if not corrected within thirty (30) days, be liable for the costs of abatement and costs of correction which shall include, but not be limited to:~~
1. ~~Cost of investigation;~~
 2. ~~Court costs;~~
 3. ~~Attorney fees;~~
 4. ~~Costs of monitoring compliance.~~
- B. ~~Upon a continuation of the public nuisance after notice from the District to cease the nuisance, any Person, firm, or corporation shall be liable for the costs of abatement set forth above, plus a civil penalty of fifty percent (50%) of these costs payable to the District in addition to any other costs of enforcement imposed by the court.~~

Section Fifteen: Deletion of Rule 152, Remedies Cumulative

District Rule 152, Remedies Cumulative, shall be deleted from Regulation XIV. Enforcement is detailed in Regulation XI.

RULE 152 – REMEDIES CUMULATIVE

~~The remedies available to the District to enforce this regulation are in addition to any other remedies available under the District's Rules and Regulations, or any other state statutes, and do not replace or supplant any other remedy but are cumulative thereto.~~

Section Sixteen: Deletion of Rule 153, Severability

District Rule 153, Severability, shall be deleted from Regulation XIV.

~~RULE 153 – SEVERABILITY~~

~~If any subdivision, paragraph, sentence, clause, or phrase of this regulation 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 regulation, 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 any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.~~

Section Seventeen: Amendment of Rule 154, Conservation Message Requirements

District Rule 154, Conservation Message Requirements, shall be amended as follows, where the portion set forth in strikethrough type (~~strikethrough~~) is deleted and the portion set forth in italicized and bold face type (***bold face***) is added:

RULE 154 – CONSERVATION MESSAGE REQUIREMENTS

- A. ~~On or before October 1, 1997, All~~ Visitor-Serving and Public and Quasi-Public Facilities shall display in visible locations in all restrooms, kitchens, and dining areas, placards or decals approved by the District promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.
- B. The owner and/or manager of each rental property shall provide a pamphlet, brochure, or other literature to current and future tenants that list the water conservation requirements, including the Water Waste and Non-Essential Water Use regulations of the District.
- C. ***Visitor-Serving Facilities shall promote towel and linen reuse programs by providing written notice in the rooms, whereby towels and linens are changed every three days or as requested by action of the guest.***
- D. ***Visitor-Serving Facilities shall provide written notice that drinking water is available only upon request. Notification of this requirement shall be provided on the table(s) or menu(s) of each facility. Visitor-Serving Facilities shall not provide drinking water from the Monterey Peninsula Water Resource System at the table unless specifically requested.***
- E. ***Facilities utilizing alternative sources of irrigation water (i.e. purified recycled water, Sub-potable/nonpotable Water, rainwater and Graywater, etc.) shall be encouraged to provide notice of the alternative supply, either by erecting a sign***

in compliance with local codes or by identifying the alternative supply in other venues such as in newsletters, websites, menus, etc.

Section Eighteen:

Publication and Application

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

Section Nineteen:

Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. on January 1, 2010.

This Ordinance shall not have a sunset date.

Section Twenty:

Severability

If any subdivision, paragraph, 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 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 by Director Doyle, and second by Director Brower, the foregoing ordinance is adopted upon this 16th day of November 2009, by the following vote:

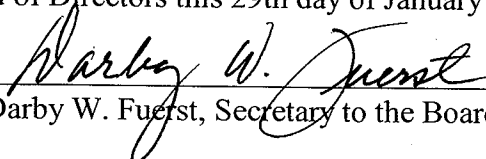
AYES: Directors Doyle, Brower, Edwards, Lehman, Markey, Pendergrass and Potter

NAYS: None

ABSENT: None

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 16th day of November 2009.

Witness my hand and seal of the Board of Directors this 29th day of January 2010.



Darby W. Fuerst, Secretary to the Board