

Adopted on September 19, 2011 – Effective on January 1, 2012

ORDINANCE NO. 149

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING THE REBATE PROGRAM**

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. Further cutbacks were ordered beginning in 2010.
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 and will require reductions in use in the future.

7. The Rebate Program contributes to water savings throughout the jurisdiction of the MPWMD. It is estimated that as of April 30, 2010, the Rebate Program has resulted in savings of approximately 260 acre-feet of water per year.
8. California American Water is a co-sponsor of the Rebate Program. Funding for this program is made available through a water conservation surcharge approved by the California Public Utilities Commission (CPUC).
9. Retrofitting of properties located in the Monterey Peninsula Water Resource System benefits the Monterey Peninsula by reducing over-pumping of Groundwater that leads to environmental degradation.
10. Retrofitting of properties receiving water from the Seaside Groundwater Basin benefits the Monterey Peninsula by reducing over-pumping of Groundwater that leads to environmental degradation.
11. The Rebate Program supports the MPWMD's mission to manage, augment and protect water resources for the benefit of the community and the environment.
12. The Rebate Program supports the District's legislative function to conserve water.
13. Funding for Rebates is one component of a conservation plan and budget approved by the CPUC in 2009. The conservation goal is to save 400-800 acre-feet of water between 2009 and 2011. Future Rebate funding is currently under consideration by the CPUC for 2012-2014, but will not be available to retrofits that occur before January 1, 2012. Funding for the Rebate Program in areas of the MPWMD not supplied by California American Water is provided by MPWMD funds. Seaside Municipal Water District adds an additional Rebate amount to each Rebate to additionally incentivize retrofits within its service area. The Rebate Account for 2009-2011 for Sites within the California American Water service area is \$1,174,925. In addition, \$45,000 was allocated to Lawn removal under a separate CPUC budget item, "Cash for Grass." The successful Lawn removal Rebate program has continued through funding in the Rebate Account.
14. This ordinance adds a definition to Rule 11 for Commercial High Efficiency Clothes Washer.
15. This ordinance deletes language regarding the process related to funding availability that was inadvertently left in Rule 141-B (Rebate Amounts) during the adoption of Ordinance No. 148 in April 2011. Similar language in Rule 23-F (Process) was deleted by Ordinance No. 148.
16. This ordinance deletes the Rebate for Rain Sensors in keeping with discussions between California American Water and the California Public Utilities Commission's Division of Ratepayer Advocates.

17. This ordinance increases the Rebate for Residential High Efficiency Clothes Washers from \$250 to \$500 to increase participation in this area of the Rebate Program. Water savings associated with HECW is approximately 8,000 gallons per year (0.02408 AF).
18. This ordinance increases the Rebate for Commercial High Efficiency Clothes Washers from \$450 to \$1,000. Commercial High Efficiency Clothes Washers save approximately 38,000 gallons per year (0.117 AF).
19. This ordinance decreases the Rebate for Lawn removal from \$1.25 per square-foot to \$1.00 per square-foot and reduces the maximum area of Lawn removal that qualifies for a Rebate from 5,000 square-feet to 2,500 square-feet to extend the funding for Lawn removal Rebates.
20. This ordinance eliminates the Rebate for Synthetic Turf.
21. This ordinance adds provisions to ensure that the increase in Rebate amounts for High Efficiency Clothes Washers will be received only for legitimate purchases of Qualifying Devices.
22. This ordinance limits the number of Commercial High Efficiency Clothes Washer Rebates to a maximum of twenty per Site.
23. 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 **2011 Rebate Amendment Ordinance** of the Monterey Peninsula Water Management District.

Section Two: **Statement of Purpose**

The Monterey Peninsula Water Management District enacts this ordinance to modify the Rebate amounts for purchase and installation of High Efficiency Clothes Washers, reduce the Rebate for Lawn removal and eliminate the Rebate for Rain Sensors and Synthetic Turf. This ordinance also deletes a portion of the summary of Rule 141-B that was inadvertently missed during the adoption of Ordinance No. 148 in April 2011.

Section Three: **Definitions**

Unless the context specifically indicates otherwise, the following word shall be given the definition set forth below and shall be permanently added to Rule 11, Definitions, of the Rules and Regulations of the District.

COMMERCIAL HIGH EFFICIENCY CLOTHES WASHER - “Commercial High Efficiency Clothes Washer (or Commercial HEW)” shall mean a Clothes Washer with a Water Factor of 5.0 or less that is manufactured for Commercial or Industrial Uses.

Section XX: Amendment of Rule 141 – Water Conservation Rebates

Rule 141 shall be amended as shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~).

RULE 141 - WATER CONSERVATION REBATES

A. QUALIFYING DEVICES

Rebates are available for purchase of the following Qualifying Devices within the boundaries of the Monterey Peninsula Water Management District:

1. High Efficiency Dishwasher;
2. High Efficiency Clothes Washer for Residential use;
3. Instant-Access Hot Water System;
4. High Efficiency Toilet;
5. Zero Water Consumption Urinal;
6. One or more Cisterns installed as a component of an Irrigation System. Maximum available Rebate shall be for 25,000 gallons of Cistern storage capacity on a Qualifying Property;
7. Smart Controller;
- ~~8. Rain Sensor appurtenant to a Smart Controller or to a conventional automatic Irrigation System controller;~~
98. Soil Moisture Sensors that control the irrigation cycles of a conventional automatic Irrigation System controller or Smart Controller. Gypsum block Soil Moisture Sensors shall not be included on the list of Qualifying Devices;
109. Removal of established Lawn and replacement with low water use plants or permeable surfaces (maximum of ~~5,000~~ 2,500 square-feet);
- ~~11. Synthetic Turf (maximum of 2,000 square feet);~~
120. High Efficiency Urinal;
131. Pint Urinal;

- 142. Rotating Sprinkler Nozzle;
- 153. Water Broom. Maximum available Rebate shall be for two Water Brooms per Qualifying Property;
- 164. *Commercial* High Efficiency Clothes Washer designed and manufactured for Non-Residential uses;
- 175. Cooling Tower Conductivity Controller;
- 186. Water Efficient Ice Machine;
- 197. X-ray film processor recirculation system.
- 2018. Cooling Tower Conductivity/pH Controller;
- 2119. Dry Vacuum Pump;
- 220. Graywater Irrigation System;
- 231. High Efficiency Connectionless Food Steamer;
- 242. High Efficiency Commercial Dishwasher;
- 253. Retrofit of a medical equipment steam sterilizer that utilizes a continuous water flow with a water tempering device.
- 264. Ultra High Efficiency Toilet;

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.

- 1. The Rebate for a High Efficiency Toilet shall be \$200 per toilet.
- 2. The Rebate for High Efficiency Dishwasher shall be \$125.
- 3. The Rebate for High Efficiency Clothes Washers shall be \$250**500**.

4. The Rebate for an Instant-Access Hot Water System shall be \$200 per Qualifying Property.
5. The Rebate for 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 Qualifying Property.
6. The Rebate for Zero Water Consumption Urinal shall be \$300.
7. 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.
- ~~8. The Rebate for a Rain Sensor attached to an Irrigation System controller shall be \$25.~~
98. 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.
409. The Rebate for Cistern water tanks shall be \$25 per 100 gallons of water storage capacity, up to a maximum storage capacity of 25,000 gallons per Qualifying Property.
140. The Rebate for Lawn removal and replacement with low water use plants or permeable surfaces shall be \$1.2500 per square-foot to a maximum of 5,000 2,500 square-feet per Qualifying Property.
- ~~121. The Rebate for Synthetic Turf shall be \$2.00 per square foot, to a maximum of 2,000 square feet per Qualifying Property.~~
131. The Rebate for a High Efficiency Urinal shall be \$200.
142. The Rebate for a Pint Urinal shall be \$300.
153. The Rebate for a Rotating Sprinkler Nozzle (minimum purchase and installation of ten) shall be \$4.00 each.
164. The Rebate for a Water Broom shall be \$150.
175. The Rebate for a **Commercial** High Efficiency Clothes Washer for Non-Residential use shall be \$4501,000. For the purpose of this Rebate, a Multi-Family Residential Qualifying Property with a Common Laundry Room shall be considered a Non-Residential use.

- 186. The Rebate for a Cooling Tower Conductivity Controller shall be \$1,000.
- 197. The Rebate for a CEE Tier II Water Efficient Ice Machine shall be \$500.
- 2018. The Rebate for an X-ray film processor recirculation system shall be \$2,500.
- 2+19. The Rebate for a Cooling Tower Conductivity/pH Controller shall be \$2,500.
- 220. The Rebate for Dry Vacuum Pumps shall be \$200 per 0.05 HP to a limit of 4 HP.
- 231. The Rebate for a High Efficiency Connectionless Food Steamer shall be \$1,500 per compartment.
- 242. The Rebate for a High Efficiency Commercial Dishwasher shall be:
 - a. \$500 for an under counter model.
 - b. \$1,000 for a single tank door type model.
 - c. \$1,500 for a single tank conveyor.
 - d. \$2,000 for a multi-tank conveyor.
- 253. The Rebate for a Graywater Irrigation System supplied by one Clothes Washer for irrigation shall be \$100.
- 264. The Rebate for a Graywater Irrigation System supplied by one or more Bathrooms that have a Bathtub/Shower connected to a Graywater Irrigation System shall be \$100 per Bathroom. Residential limit: 4.
- 275. The Rebate for a Non-Residential Graywater Irrigation System shall be considered on a case-by-case basis by the General Manager.
- 286. The Rebate for a medical equipment steam sterilizer retrofit with a water tempering device shall be \$1,500.
- 297. The Rebate for an Ultra High Efficiency Toilet shall be \$250.

C. REBATE ELIGIBILITY

- 1. Rebates shall be issued for Qualifying Devices installed on Sites located within the District that are served by Water Distribution Systems regulated by the District. The Site shall be in compliance with District Rules prior to issuance of a Rebate.
- 2. No Rebate shall be issued for installation of Qualifying Devices that are required to be installed and maintained by Regulation XIV of the District, and no Rebate shall be issued for installation of Qualifying Devices that

have been used to obtain a Water Permit. Rebates shall be available for all retrofits until the date the retrofit becomes mandatory, such as the date a Change of Ownership or Change of Use occurs, a Water Permit is issued, or the date a Non-Residential retrofit is required pursuant to Regulation XIV. Rebates shall not be available for Qualifying Devices that become mandated by local, State, or Federal water conservation programs.

3. Rebates shall be available only for the initial purchase of a Qualifying Device. Rebates shall not be issued for replacement of an existing Qualifying Device with the exception of Clothes Washers that have been removed from the Qualifying Property by a previous owner/tenant. ***Applicants submitting an application for a High Efficiency Clothes Washer Rebate on a Site that has previously qualified for a High Efficiency Clothes Washer Rebate may be required to provide information to substantiate a subsequent Rebate.***
4. Ultra High Efficiency Toilets shall meet or exceed the EPA WaterSense labeling criteria and shall bear the WaterSense Label and be listed on the WaterSense website.
5. Rebates shall be available for a maximum of twenty (20) toilets on all Non-Residential Qualifying Properties with the exception of Qualifying Properties owned and operated by a California Non-Profit Corporation.
6. Outdoor Water Use Rebates
 - a. Rebates for Cisterns shall be limited to 25,000 gallons of storage capacity on a Qualifying Property. All Cistern Rebate Sites shall have sufficient roof area to fill the capacity of the Cistern(s) after first flush during a "normal" Water Year and shall require verification of usable roof area by Site inspection.
 - b. Rebates for Lawn removal ~~and Synthetic Turf~~ shall be available only to Qualifying Properties irrigated with water from the Monterey Peninsula Water Resource System.
 - c. To be eligible for any Rebate for Lawn Removal, Lawns must be green, regularly maintained at a low even height, irrigated regularly, and be well cared for at the time of application for a Rebate. Dead Lawns or Lawns that have been removed prior to issuance of a Lawn Rebate prequalification statement from the District shall not be eligible for a Rebate.
 - d. A minimum of 250 square-feet of Lawn shall be removed to qualify for Rebate.

e. Eligibility for any Lawn Removal Rebate shall be determined upon receipt of a complete application as described in Rule 141-E. The District will notify the Applicant by written prequalification documentation that the proposed Lawn removal and replacement proposal has been "prequalified."

~~f. Applicants for Rebates for Synthetic Turf should inquire about local codes with their Jurisdiction prior to purchase and installation. The installation of Synthetic Turf for which a Rebate is requested shall not contradict any code within the local Jurisdiction.~~

~~g. A Qualifying Property may qualify for both a Lawn removal Rebate and a Synthetic Turf Rebate.~~

7. Non-Residential Rebates

a. Water Efficient Ice Machines shall be listed as CEE Tier II.

b. An X-ray film processor recirculation system shall be listed as a qualifying model by the California Urban Water Conservation Council Resource Center.

c. Rebates for Dry Vacuum Pumps shall be available only when the Qualifying Device is replacing a water (liquid) ring pump.

d. Rebates for retrofitting medical steam sterilizers with water tempering devices are limited to those sterilizers that use a continuous water flow to cool the steam discharge.

e. ***Rebates for Commercial High Efficiency Clothes Washers shall be limited to twenty (20) per Site unless specific authorization for a greater number has been secured from the General Manager.***

D. CONDITIONS OF APPROVAL

1. Applications for all Rebates with the exception of Lawn removal Rebates, shall be submitted within 120 days of purchase of Qualifying Devices.

2. Applicant shall install the fixture and/or appliance at the property listed on the application form.

3. Applicant shall certify under the penalty of perjury that the information on the application is true and complete.

4. Rebates shall only be granted for Qualifying Devices that meet the definitions as provided in Rule 11.

5. Applicant agrees that the District may conduct an inspection of the Rebate Site to verify installation of Qualifying Devices.
6. Rebates for Weather Based Irrigation Controllers
 - a. Rebates shall only be granted for Weather Based Irrigation Controllers that meet minimum quality and dependability requirements as determined by product testing conducted by the Irrigation Association.
 - b. Irrigation System shall be a fully operational, 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.
 - c. Site shall include at least 1,500 square-feet of automatically irrigated Landscaping.
 - d. Recipients of Rebates for Weather Based Irrigation Controllers shall agree to have a deed restriction recorded on the title of the property allowing public access to water use records prior to issuance of a Rebate. The application shall not be deemed complete until the deed restriction document has been notarized and returned to the District and has been successfully recorded. Rejected notarizations shall void the date of completion until the document has been recorded.
7. Rebates for Lawn removal and replacement with low water use plants or permeable surfaces and for Synthetic Turf installation.
 - a. Lawn removal and replacement at a Qualifying Property shall be subject to annual visual verification by the District.
 - b. Determinations of eligibility for Lawn removal and replacement Rebates shall be at the discretion of the General Manager.
 - c. Applications for Lawn removal Rebates shall require prequalification. The prequalification process is explained in Rule 141-F-2, Process.
 - d. Lawn must be replaced with low water use plants or permeable surfaces (e.g., mulch, decomposed granite, Synthetic Turf, permeable pavers). Concrete and grouted pavers do not qualify.

- e. If converted area is irrigated, a Drip Irrigation System must be installed and maintained. Overhead irrigation shall not be installed.
 - f. Planted areas must be mulched to a minimum depth of three inches from the plant to the drip line of the plant.
 - g. Lawn shall not be relocated to another area on the Site. The total Lawn area shall be listed on the deed restriction that restricts the changed Landscaped Area for fifteen (15) years.
 - ~~h. Rebates for Synthetic Turf shall include written confirmation from the Jurisdiction's Director of Planning that the proposed Synthetic Turf installation does not contradict any code within the local Jurisdiction.~~
 - ih. Recipients of Rebates for Lawn removal and for Synthetic Turf shall agree to have a deed restriction recorded on the title of the property allowing public access to water use records prior to issuance of a Rebate. The application shall not be deemed complete until the deed restriction document has been notarized and returned to the District and has been successfully recorded. Rejected notarizations shall void the date of completion until the document has been recorded.
 - ji. Lawn removal and Synthetic Turf Rebates shall require recordation of a deed restriction on the title of the property prior to release of Rebate funds that specifies that the property is restricted to the changed ~~L~~andscaped Area for a period of fifteen (15) years. The deed restriction shall be rescinded upon repayment to the District of the full Rebate amount and any processing fee required pursuant to Regulation VI, Fees. The application shall not be deemed complete until the deed restriction document has been notarized and returned to the District and has been successfully recorded. Rejected notarizations shall void the date of completion until the document has been recorded.
8. Graywater Irrigation System Rebates shall be granted when the following conditions have been met:
- a. Applicant shall comply with the Monterey County Department of Health's Graywater Irrigation Systems Permitting Process and Design Criteria.
 - b. Any necessary building/plumbing permits have been completed and copies provided with the Rebate application.

- c. MPWMD staff may verify Graywater Irrigation Systems by Site inspection or other means.

E. APPLICATION

1. A completed application for Rebate shall include the name and address of the Applicant, property owner's name, telephone numbers, address of property where the fixture and/or Qualifying Device is being installed, Assessor's Parcel Number, water company account number, date of retrofit, brand and model of Qualifying Device installed, name of installer and receipt for the purchase of the appliance. The application shall also request information about how the Applicant learned of the Rebate program.
2. Lawn removal Rebate applications shall follow the process shown in Rule 141-F-2.
- ~~3. Rebates for Synthetic Turf shall include written confirmation from the Jurisdiction's Director of Planning that the proposed Synthetic Turf installation does not contradict any code within the local Jurisdiction.~~
43. Applications for Rebate shall include either the original or a full copy of the receipt for purchase.
54. Written authorization of the current property owner shall be required for Applicants who are not the owners of the property for which a Rebate is requested. The authorization must indicate the property owner's consent to the Applicant receiving a Rebate for installation of the Qualifying Devices. Applications submitted without owner approval will be denied.

F. PROCESS

1. Upon receipt of an application, the District shall verify completion and accuracy of information and shall verify the purchase of the Qualifying Device(s) by reviewing the purchase receipt(s).
2. Lawn removal Rebate application process.
 - a. Prequalification: Applicants must complete and submit a Lawn Rebate Application form that includes the following documents:
 - (1) Water records (either copies of bills or a printout from the Water Distribution System) for the two most recent years;
 - (2) A drawn Site plan showing a detailed description (including measured areas) of the Lawn replacement project, including square-footage of Lawn to be removed,

names and numbers of plants or other surfaces to be installed, and the irrigation plan.

- (3) Two to three current photographs of the Lawn to be removed. A minimum of 250 square-feet of Lawn shall be removed to qualify for Rebate.
 - b. The Lawn Rebate Application shall be reviewed for completeness, and when removal of the Lawn will result in documentable water savings, the Applicant shall be contacted to arrange a Site inspection to verify the Lawn.
 - c. Following a Site inspection, and when present funding is available in an amount sufficient to fund a Rebate for the Lawn removal, the District shall issue a Lawn Rebate prequalification letter. The Applicant shall have 120 days from the date of the prequalification letter to complete the project and submit receipts, arrange for a final inspection by the District, and successfully record deed restrictions. Applications not completed within 120 days of the date of the prequalification letter shall be denied.
 - d. Rebates shall be subject to availability of funding.
3. The District shall search its records and shall verify compliance with previous retrofit requirements. If no violation is found, a Rebate shall be processed if funds are available in the Rebate Account.
 4. Information contained on the application shall be added to the District's records for future use in assessing water savings achieved through the Rebate Program.
 5. When funds are available in the Rebate Account, a Rebate check shall be processed and mailed to the Applicant.

Section Five: **Publication and Application**

The provisions of this ordinance shall cause the amendment and republication of Rule 11 and Rule 141 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Six: **Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on January 1, 2012.

This Ordinance shall not have a sunset date.

Section Seven: Severability

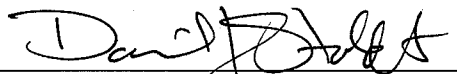
If any subdivision, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director Pendergrass, and second by Director Doyle, the foregoing ordinance is adopted upon this 19th day of September, 2011, by the following vote:

AYES: Directors Pendergrass, Doyle, Brower, Lehman, Lewis and Markey
NAYS: None
ABSENT: Director Potter

I, David J. Stoldt, 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 19th day of September, 2011.

Witness my hand and seal of the Board of Directors this 11th day of October, 2011.

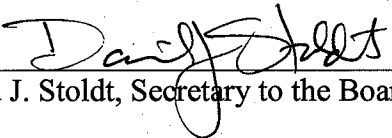


David J. Stoldt, Secretary to the Board

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COPY CERTIFICATION

I, David J. Stoldt, 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. 149 duly adopted on the 19th of September, 2011.



David J. Stoldt, Secretary to the Board

10-11-11
Date