

ORDINANCE NO. 85

AN ORDINANCE OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ESTABLISHING A TOILET RETROFIT 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 retrofit rebate program as one alternative 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 the failure of the New Los Padres Water Supply Project to win voter approval for financing in November 1995.
4. California State Water Resource Control Board Order No. WR 95-10, issued in July 1995, ruled that California-American Water Company did not have a legal right to take approximately 69 percent of the water currently supplied to Cal-Am users. The SWRCB has set specific goals to reduce water diversions from the Carmel River Basin.
5. Under SWRCB Order No. WR 95-10 Cal-Am has been ordered to reduce its historical diversion from the Carmel River Basin by 20 percent in Water Year 1997 and each subsequent year.
6. Based upon the amount of water used by Cal-Am customers during Water Year 1995-96, and the amount of water available to Cal-Am users from sources outside the Carmel River Basin, it is likely that Cal-Am will exceed the 20 percent conservation goal set for Water Year 1996-97. Without additional water conservation education and incentives or other water sources, Cal-Am will not achieve the 20 percent reduction in diversions from the Carmel River Basin in Water Year 1996-97.
7. Toilet retrofitting has proven to be an effective method to reduce water demand. The rebate program will provide incentive to retrofit to people who might not otherwise replace older toilets with water efficient models.
8. This ordinance shall modify Rule 25.6, Authorization for Reuse of Retrofit Credits, and Rule 25.7, Public Water Credits.

9. This ordinance shall establish a Rebate Account for purposes of funding toilet rebates. The Rebate Account shall be an exhaust account, whereby depletion of the account shall control the number of rebates available on a first come, first served basis.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the Rebate Program Ordinance of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose

The Monterey Peninsula Water Management District enacts this ordinance to define the rules and standards for the toilet retrofit rebate program. The purpose of this ordinance is to enact a voluntary toilet retrofit rebate program as approved in the Action Plan for Water Supply Alternatives adopted by the Board of Directors in February 1996. The Action Plan identified various types of water supply options to address the water supply needs of the Monterey Peninsula. Estimated water savings of between 40 to 65 acre-feet are expected with the initial rebate account, depending on the level of multiple-family dwelling unit retrofits. Use of the water saved by this program for new uses is not contemplated at this time.

The toilet retrofit rebate program is designed to facilitate over 1,640 toilet replacements that might not otherwise occur. Continuation and expansion of the program may be considered after the initial program has been implemented and the success of the program ascertained. The program will begin by offering a rebate of up to \$100 per toilet retrofitted in a dwelling unit. Initially, rebates will be available to residential water users only and participation is voluntary. The rebates offered by this program will be available only as long as funds are available in the rebate account.

Section Three: Definitions

A. Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below for the purpose of this ordinance. Additional words used in this ordinance are defined in Rule 11.

1. "Rebate" shall mean a payment of up to \$100 to a qualified applicant for the replacement of a non-ultra-low flush toilet with an ultra-low flush toilet.

2. "Rebate Account" shall be an account specifically set up to supply funds for rebates. The account will be debited for each rebate issued until no funds remain. At such time as funds are exhausted, no further rebates shall be issued. This account may be augmented by action of the Board.
3. "Ultra-Low Flush Toilet" shall mean a toilet that is designed to flush with no more than 1.6 gallons-per-flush.

Section Four: Eligibility

A. Qualifying Criteria. This ordinance shall apply to dwelling units supplied by a water distribution systems that derives water from the Monterey Peninsula Water Resources System. The following water distribution systems derive their source of supply from the Monterey Peninsula Water Resources System:

- California-American (Cal-Am) Water Company, all Cal-Am subunits, including Rancho Fiesta Mutual and Water West systems, with the exceptions of Carmel Valley Mutual and Ryan Ranch.
- Canada Woods Water Company
- Carmel Valley Road II
- Carmel Greens Agricultural
- Chaney/Schaffer
- Fair Weather
- Good Neighbor
- Jones/Areias
- Old River Ranch
- Rancho San Carlos Road
- Riverside RV Park
- Schut/Jones
- Seaside Municipal
- Selle
- Clark-Wells Fargo
- Sleepy Hollow (Potable)
- any water distribution system which receives its source of supply from one or more subunits of the Monterey Peninsula Water Resources System.

B. Exceptions. The following eligible dwelling units shall not qualify for a toilet retrofit rebate:

1. Dwelling units subject to Rule 144 (transfer of ownership or expansion in use requiring retrofit to ultra-low water using fixtures).
2. Dwelling units for which a water permit was issued between 1985 and 1987 whereby a connection charge reduction was allowed due to voluntary installation of ultra-low flush toilets.

3. Properties which were required to retrofit as a condition of a water rationing variance (Rule 92).

4. Dwelling units owned by a federal, state or local government entity.

C. Replacement of Existing Toilets. Rebates shall not be issued for the replacement of existing ultra-low flush toilets.

Section Five: Amendment to Rule 25.6 - Authorization for the Reuse of Retrofit Credits

The following underscored (bold) text shall be added to Rule 25.6 (A):

“The use of retrofit credits is limited to single-family residences. It is not applicable to commercial, industrial, or multi-family residential connections. **Retrofit credit shall not be granted for any retrofit that was accomplished pursuant to the rebate program ordinance.**”

Section Six: Amendment to Rule 25.7 - Public Water Credits

The following underscored (bold) text shall be added to Rule 25.7 (D):

“Upon completion of the proposed retrofit and verification by District staff, the jurisdiction(s) shall be credited for the amount of water saved according to the procedure outlined in Rule 25.5. Credit may include water saved through toilet retrofits. Credits are not available for retrofits which occurred prior to the effective date of this ordinance, **or for retrofits accomplished pursuant to the rebate program ordinance.**”

Section Seven: Application.

A completed application for rebate shall include the name and address of the applicant, property owner's name, telephone numbers, Assessor's Parcel Number (required in the City of Carmel), water account number, date of retrofit, brand and model of toilet installed, name of installer and the receipt for the purchase. Application forms shall be provided by the District.

Section Eight: Retrofit

An applicant shall cause the replacement of a non-ultra-low flush toilet with an ultra-low flush toilet prior to receiving a rebate. Complying with applicable local permitting requirements shall be the responsibility of the applicant.

Section Nine: Process

A. Categories of Rebates Available

1. Self purchase - No Pre-Authorization. A person may elect to purchase and self install a toilet for a rebate or may purchase a toilet and have a licensed plumber install the fixture. To receive a self-purchase rebate, the applicant shall submit a complete application and original receipts to the District.
2. Pre-Approved Installation. A person may elect to apply for a rebate in advance of purchasing a toilet or hiring a plumber to provide and install the toilet. In this case, an application requesting pre-approval must be completed and submitted to the District. The District shall issue a 30-day voucher to the applicant that will permit the rebate to be mailed upon receipt of the voucher and receipts.

B. Tracking

1. Upon receipt of an application, the District shall verify completion and accuracy of information and shall confirm the receipt is valid.
2. The District shall search its existing databases 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. If the property has been subject to a past retrofit requirement, the District shall notify the applicant that the property is not eligible for a rebate.
4. 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.
5. When funded, a rebate check will be processed and mailed within 30 days following submittal to the District of a complete and valid application which includes a receipt for all reimbursable services and supplies. The rebate shall cover the cost of the toilet, seat, wax seal, supply line, angle stop, plumbing permit, and installation by a licensed plumber, not to exceed \$100 or the actual cost, whichever is less. The amount of the rebate shall be limited to no more than \$100 per toilet or the actual costs of the toilets and installation, whichever is less.

The District shall periodically review the rebate program and determine whether to continue, modify or terminate the program. If at any time funds designated for rebates are expended prior to review, the program shall be suspended pending review and direction by the Board of Directors.

Section Ten: Review of Ordinance

The District shall periodically review the rebate program and determine whether to continue, modify or terminate the program. If at any time funds designated for rebates are expended prior to review, the program shall be suspended pending review and direction by the Board of Directors.

Section Eleven: 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. This ordinance shall be read in conjunction with and complement those provisions of the District's Rules and Regulations, provided; however, the provisions enacted by this measure shall take precedence over and supersede any contradictory provision of those rules. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Twelve: Effective Date

This ordinance shall be given effect at 12:01 a.m. on January 11, 1997. The rebate process shall apply to toilet installations completed on or after December 12, 1996.

Section Thirteen: Sunset

This ordinance shall not have a sunset date.

Section Fourteen: Severability

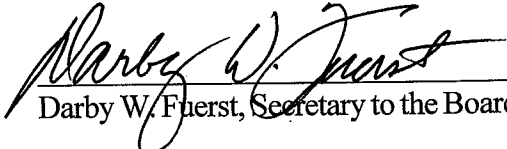
If any subdivision, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other 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 Ernst, the foregoing ordinance is adopted upon this 12th day of December, 1996, by the following vote:

AYES: Vice Chairperson Ely, Directors Ernst, Haddad, Hughes, Karas and Pendergrass
NAYS: None
ABSENT: Chairperson Burkleo

I, Darby 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 12th day of December, 1996.

Witness my hand and seal of the Board of Directors this 18th day of December, 1996.


Darby W. Fuerst, Secretary to the Board