

EXHIBIT 12-A

**Draft
ORDINANCE NO. 156**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
CLARIFYING AND AMENDING TERMS AND PROCEDURES RELATED TO
WATER PERMITS, WATER USE CREDITS, REBATES AND LANDSCAPE WATER AUDITS**

FINDINGS

1. The Monterey Peninsula Water Management District was created to address ground and surface water resources in the Monterey Peninsula area, which the Legislature found required integrated management, and was endowed with the powers set forth in the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, found at West's Water Code, Appendix, Section 118-1, et seq.).
2. The Monterey Peninsula Water Management District has adopted and regularly implements regulations which, inter alia, set standards for the installation of plumbing fixtures in New Construction, and require retrofit or replacement of existing plumbing fixtures upon Change of Ownership, Change of Use, and Expansion of Use, and for existing Non-Residential uses. The Monterey Peninsula 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 Monterey Peninsula Water Management District has found and determined that it is in the best interests of the Monterey Peninsula Water Management District and its inhabitants to define, implement and enforce water efficient plumbing standards and requirements for the conservation of Potable water supplies. Retrofit or replacement of existing plumbing fixtures lessens consumption of the limited water resources available on the Monterey Peninsula. Installation of water efficient plumbing fixtures reduces the burden of new, expanded or modified uses on the water resources.
4. The Monterey Peninsula Water Management District has determined that water demand management and conservation and efficiency standards benefit the public good by increasing the supply of Potable water available for use and by reducing existing demand for Potable water. The reduction in demand decreases production impacts upon the environment.

5. The Monterey Peninsula Water Management District approved a 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.
6. This ordinance amends the definitions in District Rule 11 for the following terms: Change of Use, Landscape Irrigation Auditor, Landscape Water Audit, and Landscape Water Budget and Shower, Separate Stall. A definition for “Meter Split” is added.
7. This ordinance amends District Rules 20 and 24 to allow the replacement or installation of a Standard Bathtub in place of a Shower Stall, and vice versa. Exchanging these fixtures without first obtaining or amending a Water Permit occurs regularly and often does not involve permits with the Jurisdiction. The effort involved with permitting this exchange in fixtures by the District is burdensome on the public and does not result in a change in the Water Use Capacity of the Bathroom.
8. This ordinance amends District Rule 23 to clarify metering requirements and exemptions. The District mandates the use of individual Water Measuring Devices in New Structures and in New Construction.
9. This ordinance amends District Rule 23 to require public access to water records (at no additional charge) as a condition of all Water Permits.
10. This ordinance amends District Rule 23 to clarify the requirement for a tee on the customer side of the Water Measuring Device to supply water for domestic use (one line) and for fire suppression (the other line). A diagram depicting this requirement is available at MPWMD.
11. The ordinance amends District Rule 24 to increase the fixture unit value of an Ultra-Low Flush Toilet by 1/1,000th of an Acre-Foot to 1.8 fixture units (or 0.018). This amendment results in an increase to the high efficiency appliance credit (Rule 25.5, Table 4) for High Efficiency Toilets from 0.4 fixture units to 0.5 fixture units.
12. This ordinance amends District Rule 25.5 to clarify that a Limitation of Use of Water on a Property deed restriction is required when a Water Use Credit is used to offset an Intensification or Expansion of Use. The rule is further amended to exempt offsets made using credit from High Efficiency Toilets from the deed restriction due to the restriction on higher flush volume toilets after January 1, 2014 (Health & Safety Code §17921.3).

13. This ordinance amends District Rule 25.5 to continue the high efficiency appliance credit (Rule 24, Table 4) for High Efficiency Toilets. Although State Law mandates the sale and installation of High Efficiency Toilets after January 1, 2014, this amendment continues an incentive to replace existing Ultra-Low Flush Toilets and higher volume flush toilets, thereby achieving greater water savings. District Rule 144-C currently provides an exemption to the Water Permit and conservation toilet retrofit requirements for existing Ultra-Low Flush Toilets until December 31, 2016.
14. This ordinance amends District Rule 25.5 to allow a record of eight years of water records rather than ten when documenting Non-Residential Water Use Credit for retrofits with Ultra-Low Consumption Technology. This amendment is necessary due to California American Water's record retention system.
15. This ordinance amends District Rule 141 to add a Rebate for Ultra-Low Flush Toilet, High Efficiency Toilet and Ultra High Efficiency Toilet flappers. The periodic replacement of flappers is encouraged to reduce potentially undetected leaks.
16. This ordinance adds a \$50 Rebate for replacement of Ultra-Low Flush Toilets with High Efficiency Toilets. The lower Rebate is justified due to implementation of amendments to the Health and Safety Code §17921.3 that mandates the sale and installation of High Efficiency Toilets in California after January 1, 2014.
17. This ordinance amends language related to mandatory inspection of Lawn removal and Cistern Rebate applications. Mandatory inspections are not necessary in many cases when there is sufficient evidence to determine if a Site qualifies for a Rebate. Often this evidence is available with District GIS and/or Internet resources and/or clear and convincing evidence provided by the Applicant.
18. This ordinance amends Rule 172 to clarify the Landscape Water Audit process.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the **2013 Water Permit and Conservation Programs Amendment and Clarification Ordinance** of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose

The Monterey Peninsula Water Management District enacts this ordinance to clarify and amend terms and procedures related to Water Permits, Water Use Credits, Rebates and Landscape Water Audits. The ordinance clarifies definitions and procedures to facilitate improved implementation of the Rules and Regulations of the District; resolves a problematic issue related to the interchangeability of Standard Bathtubs and Shower Stalls; revises the fixture unit value for Ultra-Low Flush Toilets by 1/1,000th of an Acre-Foot; continues the conservation incentive (Rule 25.5, Table 4) for Ultra-Low Flush Toilets replaced with High Efficiency Toilets or Ultra High Efficiency Toilets; adds Rebates for flapper replacements and replacement of Ultra-Low Flush Toilets with High Efficiency Toilets; and amends Rule 172 to conform with amendments to Rule 11 (Definitions) related to Landscape Irrigation Auditors.

Section Three: Amendment of Rule 11, Definitions

A. Rule 11, Definitions, shall be amended as follows with added language shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

CALIFORNIA LANDSCAPE CONTRACTORS ASSOCIATION – “California Landscape Contractors Association” shall mean the California non-profit trade organization of licensed landscape and landscape-related contractors that was formally incorporated in 1952.

CHANGE OF USE - “Change of Use” means, ~~in the case of commercial, industrial or public authority structures,~~ a ***Non-Residential*** change ***from one Group to another*** ~~in the use to which the structure was previously devoted,~~ to a substantially different use, as uses are categorized by ***in*** Table 2 of Rule 24, ***or a change from Table 1 to Table 2 or vice versa. Change of Use as defined by the District may differ from a change in zoning or use as defined by a Jurisdiction.***

LANDSCAPE IRRIGATION AUDITOR – “Landscape Irrigation Auditor” shall mean a Person certified by the Irrigation Association *or the California Landscape Contractors Association* to perform Landscape Water Audits and ~~assign~~ *prepare* Landscape Water Budgets.

LANDSCAPE WATER AUDIT – “Landscape Water Audit” shall mean an action taken by a Landscape Irrigation Auditor ~~certified by the Irrigation Association~~ to determine reasonable outdoor water use.

LANDSCAPE WATER BUDGET – “Landscape Water Budget” shall mean a maximum annual water allowance in gallons per year, determined upon completion of a Landscape Water Audit by a Landscape Irrigation Auditor ~~certified by the Irrigation Association~~. The Landscape Water Budget shall take into consideration the types of plants, soil condition, Evapotranspiration rates and Irrigation System.

METER SPLIT – “Meter Split” shall mean the authorized installation of individual Water Measuring Devices for more than one Water User on a Site that is, at the time of application, supplied by an existing Connection.

~~SHOWER, SEPARATE STALL~~ - “~~Shower, Separate Stall~~” shall mean an enclosure that contains one Showerhead and is neither a Standard Bathtub nor a Large Bathtub.

Section Four: Amendment of Rule 20, Permits Required

Rule 20, Permits Required, shall be amended as follows, with added language shown in ***bold italic*** type face and deleted language shown in ~~strikeout~~ type face.

B. PERMITS TO CONNECT TO OR MODIFY A CONNECTION TO A WATER DISTRIBUTION SYSTEM

Before any Person connects to or modifies a water use Connection to a Water Distribution System regulated by the District or to any Mobile Water Distribution System, such Person shall obtain a written Permit from the District or the District’s delegated agent, as described in District Rules 21, 23 and 24. The addition of any Connection and/or modification of an existing water Connection to any Water Distribution System permitted and regulated by the District shall require a Water Permit.

The following actions require a Water Permit:

1. Any change in use, size, location, or relocation of a Connection or Water Measuring Device which may allow an Intensification of Use or increased water consumption.
2. Each use of an On-Site credit or Water Use Credit.
3. Any modification to, ~~or relocation~~ **the number or type** of, Residential water fixtures **shown in Rule 24, Table 1, Residential Fixture Unit Count Values, with two exceptions: (1) replacement of a Standard Bathtub fixture with a Shower Stall and vice versa; and (2) removal of a lawful water fixture.**
4. Any Landscaping changes resulting in an Intensification of Use when a Landscape plan has been reviewed and approved as a component of a Water Permit.
5. Any Change of Use and any expansion of a Non-Residential use to a more intensive use as shown on Table 2 (Rule 24), except when the Change of Use or expansion modifies (1) an unenclosed structure that has no plumbing; or (2) a temporary structure (i.e., a structure without permanent occupancy and without a permanent foundation and that has no plumbing).
6. ~~Installation of~~ **Installation of** new water fixtures **(Rule 24, Table 1) in a Residential use** ~~(i.e., other than replacem~~ent~~ing of existing water fixtures) in a Residential use.~~
7. Use of water from a Mobile Water Distribution System.

Section Five: Amendment of Rule 23-A-1-i, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System

Rule 23-A-1-i, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System, shall be amended as follows, with added language shown in ***bold italic*** type face and deleted language shown in ~~strikeout~~ type face..

- i. ~~*Each User shall be required to install a Water Measuring Device.*~~ ~~The General Manager shall not issue a Water Permit which results in the installation of a new water meter that serves water to more than one User~~ ***when there are substantial structural modifications and/or new plumbing is installed.*** ~~Multiple Users shall apply for separate Water Permits pursuant to this rule.~~ This provision, however,

shall not prevent the issuance of a Water Permit which allows a single User to extend incidental water use (e.g. to a single Bar Sink) *to another User as the result of*. ~~This provision shall be construed to enable the issuance of a Water Permit required by reason of a change in occupancy or use. of an Existing Non-Residential Structure without a requirement to install separate water meters for each separate use or User, provided no substantial structural modifications are necessary to facilitate the changed use. Any such application shall nonetheless be processed in accord with Rule 24 (Calculation of Water Use Capacity and Connection Charges).~~

Section Six: **Amendment of Rule 23-B-1-e, Mandatory Conditions, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System**

Rule 23-B-1-e, Mandatory Conditions, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

- e. All Water Permits ~~requiring deed restrictions~~ shall include a Notice and Deed Restriction titled “Provide Public Access to Water Use Data.” *There shall be no additional charge for this deed restriction.*

Section Seven: **Amendment of Rule 23-B-2-c, Mandatory Conditions, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System**

Rule 23-B-2-c, Mandatory Conditions, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face..

- c. All New Structures receiving a Water Permit after January 1, 2009, shall have separate water supply lines *that tee off* after the water meter to supply fire suppression service and domestic service. This configuration shall facilitate installation of a Flow Restrictor in the domestic service without interfering with the fire suppression service.

Section Eight: **Amendment of Rule 24, Table 1: Residential Fixture Unit Count**

Rule 24, Table 1, Residential Fixture Unit Count, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

	Water Fixture Description	Fixture Unit Value
1	Washbasin (lavatory sink), each	1
2	Two Washbasins in the Master Bathroom	1
3	Toilet, Ultra Low Flush (1.6 gallons per flush)	1.8
34	Toilet, High Efficiency (HET) (1.3 gallons maximum)	1.3
45	Toilet, Ultra High Efficiency (UHET) (0.8 gallon maximum)	0.8
56	Urinal, High Efficiency (0.5 gallon-per-flush)	0.5
67	Urinal, Zero Water Consumption	0
78	Bathtub, (may be Large with Showerhead above) & Separate Shower in the Master Bathroom	3
89	Bathtub, Large (may have Showerhead above)	3
910	Bathtub, Standard (may have Showerhead above) or Shower Stall (one Showerhead)	2
10	Shower, Separate Stall (one Showerhead)	2
11	Shower, each additional fixture (including additional Showerheads, Body Spray Nozzles, etc.)	2
12	Shower System, Rain Bars, or Custom Shower (varies according to specifications)	2
13	Kitchen Sink (including optional adjacent Dishwasher)	2
14	Kitchen Sink with adjacent High Efficiency Dishwasher (5.8 gallons maximum per cycle)	1.5
15	Dishwasher, each additional (including optional adjacent sink)	2
16	Dishwasher, High Efficiency, each additional (including optional adjacent sink) [5.8 gallons maximum per cycle]	1.5
17	Laundry Sink/Utility Sink (debit/Connection Charge applies to only one Laundry/Utility Sink per Residential Site)	2
18	Clothes Washer	2
19	Clothes Washer, High Efficiency (HEW) (Water Factor of 5.0 or less)	1
20	Bidet	2
21	Bar Sink	1
22	Entertainment Sink	1
23	Vegetable Sink	1
24	Swimming Pool (each 100 square-feet of pool surface area)	1
25	For all new Connections -- Refer to Rule 24-A-5, Exterior Residential Water Demand Calculations.	

Section Nine: Amendment of Rule 25.5, Table 4: High Efficiency Appliance Credits

B. Rule 25.5, Table 4, High Efficiency Appliance Credits, shall be amended as follows, with added language shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

TABLE 4: HIGH EFFICIENCY APPLIANCE CREDITS

Appliance	Description	Water Use Credit in Acre-Feet
High Efficiency Toilets (available until 12/31/2013)	A toilet designed to have an average maximum flush of 1.3 gallons.	0.004 0.005 AFA
Ultra High Efficiency Toilet	A toilet designed and manufactured to flush with a maximum of 0.8 gallon of water and that is labeled by the U.S. Environmental Protection Agency's WaterSense program.	0.010 AFA
Instant-Access Hot Water System	A recirculating hot water system or other device(s) that results in hot water contact at every point of access throughout the Dwelling Unit within ten (10) seconds. Instant-Access Hot Water Systems shall be installed in each auxiliary building plumbed with hot water on a Single Family Residential Site. There shall be no Water Use Credit for installation of Instant-Access Hot Water Systems for New Structures.	0.005 AFA
High Efficiency Dishwasher	A dishwasher designed to use a maximum of 5.8 gallons per cycle. A High Efficiency Dishwasher shall have Energy Star certification.	0.005 AFA
High Efficiency Clothes Washer	A Clothes Washer with a Water Factor of 5.0 or less.	0.010 AFA

Section Ten: Amendment of Rule 25.5-G-2, Water Use Credits and On-Site Water Use Credits

Rule 25.5-G-2, Water Use Credits and On-Site Water Credits, shall be amended as follows, with added language shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

2. Use of a documented ***Residential*** Water Use Credit ***that originates from Table 4, High Efficiency Appliance Credits, or that originates from a Non-Residential Water Use Credit resulting from installation of Ultra Low Consumption Technology*** to offset an Expansion of Use shall cause recordation of a Notice and Deed Restriction Regarding Limitation on Use of Water on a property. ***There shall be an exception to this requirement when the credit originates from installation of High Efficiency Toilets.***

Section Eleven: Amendment of Rule 25.5-F-4-d(1) and Rule Rule 25.5-F-4-d(2), Water Use Credits and On-Site Water Use Credits

Rule 25.5-F-2, Rule 25.5-F-4-d(1) and Rule 25.5-F-4-d(2) shall be amended to require a minimum of eight years of water records.

Section Twelve: Amendment of Rule 141, Water Conservation Rebates

A. The following Qualifying Devices and Rebate Amounts (shown in *bold italics*) shall be added to Rule 141:

- *Toilet Flapper for Ultra-Low Flush Toilet, High Efficiency Toilet or Ultra High Efficiency Toilet: \$15*
- *The Rebate for replacement of an Ultra-Low Flush Toilet with a High Efficiency Toilet shall be \$50.*

C. Rule 141-C-6-a shall be amended as follows, with added language shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

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~~ *may* require verification of usable roof area by Site inspection.

B. Rule 141-F-2 shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

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~~ **may** be contacted to arrange a Site inspection to verify the Lawn.
 - c. ~~Following a Site inspection~~ ***When a determination has been made that removal of Lawn will result in permanent and quantifiable water savings,*** 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.

Section Thirteen: Amendment of Rule 172 Landscape Water Audits

- C. Rule 172, Landscape Water Audits, Sections A through B-5-a, shall be amended as follows, with added language shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face. The remainder of the Rule shall remain unchanged.

RULE 172 - LANDSCAPE WATER AUDITS

- A. Landscape Water Audits shall be conducted under the supervision of ***a Landscape Irrigation Auditor*** ~~an individual who has been certified by the Irrigation Association to conduct audits and establish Landscape Water Budgets.~~ Each audit shall be signed by that Person, who shall attest that the audit was performed under his/her direction.

B. Landscape Water Audits and Landscape Water Budgets shall be offered by the District and/or California American Water or their agent free of charge to all Water Users of California American Water with Dedicated Irrigation Meters, large irrigated areas over three acres, irrigated Open Space, and Large Residential Water Users. Landscape Water Budgets shall be required for new Dedicated Irrigation Meters and shall be based on a Water Budget determined by the Estimated Total Water Use as determined by a Landscape and Irrigation System plan at the time the meter is installed. California American Water shall review its Residential customer consumption records at the completion of every Water Year to identify all Residential Users that consumed an average of 320 units per month (24,000 gallons) during the prior Water Year. California American Water shall identify the Users that require a Landscape Water Audit and Landscape Water Budget and that do not have a Water Budget on file at MPWMD and California American Water. Newly identified Users shall be notified by California American Water that they are required to obtain a Landscape Water Audit and Landscape Water Budget. Once notified of the requirement to obtain a Landscape Water Audit and Landscape Water Budget, a User must arrange to complete the audit process within sixty (60) days. Existing customers subject to this Rule shall be given annual notice by California American Water to report any changes to the Landscaping or Irrigation Systems. Significant changes shall necessitate a follow-up audit.

1. California American Water Users shall be required to obtain Landscape Water Audits and establish Landscape Water Budgets if the property:
 - a. Has a Dedicated Irrigation Meter; or
 - b. Is an irrigated area of greater than three acres; or
 - c. Is a Large Residential Water User; or
 - d. Is irrigated public Open Space.
2. All Landscape Water Budgets must be prepared by *a Landscape Irrigation Auditor* ~~an individual certified by the Irrigation Association.~~
3. All Water Users required to complete a Landscape Water Audit and establish a Landscape Water Budget shall have the option of obtaining a Landscape Water Audit and Landscape Water Budget from a Landscape

Irrigation Auditor of their choice at their own expense ~~if the auditor is certified by the Irrigation Association.~~

4. Landscape Water Audits and Landscape Water Budgets not conducted and prepared by the District and/or California American Water shall be completed as specified in this Rule. Completed Landscape Water Budgets and Landscape Water Audits shall be submitted to California American Water. California American Water shall forward a copy of all completed Landscape Water Audits and Budgets to the District within ten (10) days of receipt ~~by California American Water.~~ Landscape Water Audits not performed by the District or California American Water are subject to review and acceptance by the District. Landscape Water Audits and Landscape Water Budgets rejected by the District may be appealed to the Board of Directors pursuant to Rule 70 (Appeals).
5. Audit
 - a. An On-Site Landscape Irrigation Audit ~~shall be completed or overseen by a Certified Landscape Irrigation Auditor (CLIA) and~~ shall include evaluation and documentation of the following:

[The remainder of this Rule is not amended by this ordinance.]

Section Fourteen: Publication and Application

The provisions of this ordinance shall cause the amendment and republication of Rules 11, 20, 23, 24, 25.5, 141 and 172 of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Fifteen: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. thirty days after adoption on second reading.

This Ordinance shall not have a sunset date.

Section Sixteen: 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 _____, and second by Director _____, the foregoing ordinance is adopted upon this ____ day of _____, 2013, by the following vote:

AYES:

NAYS:

ABSENT:

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 ____ day of _____, 2013.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2013.

David J. Stoldt, Secretary to the Board

U:\staff\Boardpacket\2013\20131021\PubHrng\12\item12_exh12a.docx