

MARIN MUNICIPAL WATER DISTRICT

ORDINANCE NO. 454

AN ORDINANCE AMENDING CHAPTER 13.04 ENTITLED “COMPREHENSIVE DROUGHT WATER CONSERVATION AND ENFORCEMENT MEASURES” OF TITLE 13 OF THE MARIN MUNICIPAL WATER DISTRICT CODE ENTITLED “WATER SERVICE CONDITIONS AND WATER CONSERVATION MEASURES” ESTABLISHING LIMITS ON WATER USE AND ASSOCIATED PENALTIES

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE MARIN MUNICIPAL WATER DISTRICT AS FOLLOWS:

SECTION 1. Purpose: Due to the current drought conditions and low storage reservoir levels existing in the service area of the Marin Municipal Water District (District), the Board of Directors (Board) declared a water shortage emergency on April 20, 2021 pursuant to Water Code sections 350, et seq. and 71640, et seq. as set forth in Board Resolution No. 8630 and subsequently adopted Ordinance Nos. 449, 450, 452, and 453 instituting mandatory water conservation measures for all District customers. The purpose of this ordinance is to establish limits on water use and penalties for water use in excess of the new water use limits. The adoption of these additional measures is necessary to substantially reduce or eliminate water use for outdoor irrigation and preserve remaining water supply given the uncertainty of future supply conditions due to drought.

SECTION 2. Section 13.04.025 entitled “Limits on water use” is hereby added to the Marin Municipal Water District Code to read as follows:

- (a) All single-family residential water accounts on metered service, and all single-family residential consumers with two legal living units not required to have separate meters pursuant to Section 11.04.070, Billing Code 1, shall limit water use during each bimonthly billing period to no more than 21 CCFs of water during the winter service period and no more than 59CCFs of water during the summer service period. The District will use the Marin County Assessor-Recorder County Use Codes to determine if a property is a single-family residential property with two living units, which shall be assessed the Billing Code 1 bimonthly commodity charge, as designated by Marin County Assessor-Recorder County Use Codes 10-14.
- (b) All single-family residential irrigation water accounts, on metered service, Billing Code 19, shall limit water use during each bimonthly billing period to 0% of their current baseline during the winter service period and to 50% of their current baseline during the summer service period.
- (c) All commercial irrigation water accounts, on metered service, Billing Code 8, shall limit water use during each bimonthly billing period to 0% of their current baseline during the winter service period and to 85% of their current baseline during the summer service period.

For the purposes of this chapter, the winter service period is defined as the months December through May and the summer service period is defined as the months June through November. The winter use schedule shall be applied on all bills for which the meter is read during the winter service period. The summer use schedule shall be applied to all consumption on bills for which

the meter is read during the summer service period. All irrigation water accounts to include Billing Codes 8 and 19, shall not be allowed to modify their baseline adjustments pursuant to section 11.24.050 of the District Code while sections 13.04.025 and 13.04.026 are in effect.

SECTION 3. Section 13.04.026 entitled “Penalties for water use in excess of limits” is hereby added to the Marin Municipal Water District Code to read as follows:

Effective as of December 1, 2021, any water use in excess of the limits set forth in section 13.04.025 shall be subject to penalties as set forth in this section.

- (a) All single-family residential water accounts on metered service, and all single-family residential water accounts with two legal living units not required to have separate meters pursuant to Section 11.04.070, Billing Code 1, that exceed the limits on water use set forth in section 13.04.025 (a), shall be charged the penalties set forth below for each CCF of water use in excess of the limits plus all other applicable charges set forth in Title 6.

<u>Winter Use (CCF)</u>	<u>Winter Penalty Per CCF of Water in Excess of Limit</u>	<u>Summer Use (CCF)</u>	<u>Summer Penalty Per CCF of Water in Excess of Limit</u>
22-48	\$5	60-99	\$10
49-80	\$10	100+	\$15
81+	\$15		

- (b) All single-family residential irrigation water accounts, on metered service, Billing Code 19, that exceed the limits on water use set forth in Section 13.04.025 (b), shall be charged the penalties set forth below for each CCF of water use in excess of the limits plus all other applicable charges set forth in Title 6.

<u>Winter Use % of Baseline</u>	<u>Winter Penalty Per CCF of Water in Excess of Limit</u>	<u>Summer Use % of Baseline</u>	<u>Summer Penalty Per CCF of Water in Excess of Limit</u>
0-50%	\$5	51-100%	\$10
51-100%	\$10	Over 100%	\$15
Over 100%	\$15		

- (c) All commercial irrigation accounts, on metered service, Billing Code 8, that exceed the limits on water use set forth in Section 13.04.025(c), shall be charged the penalties set forth below for each CCF of water use in excess of the limits plus all other applicable charges set forth in Title 6.

<u>Winter Use % of Baseline</u>	<u>Winter Penalty Per CCF of Water in Excess of Limit</u>	<u>Summer Use % of Baseline</u>	<u>Summer Penalty Per CCF of Water in Excess of Limit</u>
0-85%	\$5	86-150%	\$10
86-150%	\$10	Over 150%	\$15
Over 150%	\$15		

The limits on water use set forth in section 13.04.025 and the penalties set forth in this section shall be subject to the variance procedures set forth in section 13.04.030, the appeals process set forth in section 13.04.060 and adjustments as set forth in section 13.04.027. Variances issued to

comply with Section 13.04.020 are insufficient to meet the requirements of section 13.04.025. A variance specific to section 13.04.025 will be required. Any adjustments made pursuant to this section shall apply from the date the District grants a variance. No retroactive adjustments will be made.

SECTION 4. Section 13.04.027 entitled “Adjustment of limits on water use for larger households” is hereby added to the Marin Municipal Water District Code to read as follows:

The limits on water use for all single-family residential water accounts on metered service, and all single-family residential water accounts with two legal living units not required to have separate meters pursuant to Section 11.04.070, Billing Code 1, set forth in Section 13.04.025 (a) may be adjusted by the District for households with more than four (4) full-time residents. Accounts serving more than four (4) full-time residents must submit a District-supplied application form and documentation demonstrating their household size to the District in order to receive an adjustment. For each full-time household resident, in excess of four (4), the District will increase the limits on water use set forth in Section 13.04.025 (a) by four (4) CCFs per bimonthly billing period. For purposes of this section, a full-time household resident shall mean an individual who resides at the property served for a minimum of six months of the year. Any adjustments made pursuant to this section shall apply from the date the District receives a complete application. No retroactive adjustments will be made.

SECTION 5. Findings of Necessity: The Board of Directors, after considering all of the information and testimony presented at its September 21, 2021 public hearing regarding this ordinance, finds as follows:

- I. Historic and Current Water Supply Overview
 - A. Water is a finite and precious resource.
 - B. The District’s water supply currently remains limited to water captured in its seven reservoirs; water transported from the Russian River via the North Marin aqueduct; and recycled water produced at the Las Gallinas Valley Sanitary District Plant (for a variety of non-potable purposes). About 73% of the District’s water supply comes from its reservoirs, 25% from the Russian River through the North Marin aqueduct and 2% from recycled water. Although options to increase the District’s water supply are being evaluated, the implementation of any preferred alternative will not be immediate.
 - C. Based upon rainfall patterns for the District, very little rainfall occurs from May to October each year. In recent years, the overall summer peak-period has found water use averages about twice winter use.
 - D. The water conservation program already adopted by this Board is necessary to conserve additional water for beneficial use and to preserve the District’s water supply.
 - E. As of September 16, 2021, the District’s water storage level is 28,447 acre feet, which is 35.75% of average for this time of year. As a result of this drought, the District reservoirs are projected to be below 25,000 acre-feet on December 1, 2021 in the absence of above average rainfall and runoff, which is less than one-year of water supply based on recent demand.

- F. Projections indicate that another dry water year could result in reservoir storage levels as low as 10,000 acre feet in summer or fall of 2022, resulting in uncertainty as to the continued water supply availability.
- G. Continued conservation is needed to assure water supply availability.

II. Limits on Water Use and Associated Penalties

- A. On April 20, 2021, pursuant to Board Resolution No. 8630, the District declared a water shortage emergency pursuant to Water Code sections 350, et seq. and 71460, et seq.
- B. Based upon projected demand and current storage levels, the District must preserve its remaining water supply to assure sufficient supply in the coming months given the uncertainty of future weather and water storage.
- C. Article X Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use to the fullest extent of which they are capable and that the waste, unreasonable use or unreasonable method of use of water be prevented, and that conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare.
- D. California Water Code section 71640 authorizes the District to restrict the use of water during any emergency caused by drought, or other threatened or existing water shortage, and prohibit the wastage of District water or the use of District water during such periods for any purpose other than household uses or such other restricted uses as the District determines to be necessary. The District may also prohibit use of District water during such periods for specific uses which it finds to be nonessential.
- E. Pursuant to Water Code section 353, when the Board declares the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.
- F. The Board has adopted such regulations and restrictions on water use with the adoption of Ordinances 449, 450, 452 and 453 respectively.
- G. In addition to the conservation measures already adopted by the Board, the Board finds that the limits on water use and associated penalties set forth herein are necessary to reduce excessive water use and preserve the District's existing water supply.
- H. The Board finds that the penalties set forth herein for exceeding the limits on water use are being adopted pursuant to Article XIII C, Section 1(e)(5) of the California Constitution, commonly known as Proposition 26, as the penalties are being imposed by the District for violations of law.

- I. Furthermore, the Board finds that the penalties set forth herein are not a tax. The amounts of such penalties are no more than what is necessary to cover the reasonable cost of the District's water conservation and enforcement activities. The penalties assessed bear a fair and reasonable relationship to the payor's burdens on the District.

SECTION 6. Environmental Determination: This project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and based upon the above findings and purposes of this ordinance, qualifies for an exemption pursuant to Section 21080(b)(4) of the Public Resources Code in that the Board of Directors find that these measures are necessary to preserve water supply to prevent or mitigate a water supply emergency.

SECTION 7. Severability: If any section, subsection, sentence, clause, phrase, portion or part of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall not affect the validity of the remaining portions of this code. The Board of Directors hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections subsections, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 8. Effective Date: Pursuant to Water Code section 376, this ordinance shall be effective on the day of its adoption. Within 10 days of adoption, this ordinance, or a summary hereof, shall be published in the Marin Independent Journal pursuant to Section 6061 of the Government Code.

PASSED AND ADOPTED this 21st day of September, 2021, by the following vote of the Board:

AYES: Directors Jack Gibson, Monty Schmitt, Larry L. Russell, and Cynthia Koehler

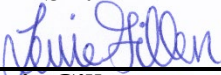
NOES: None

ABSENT: Director Larry Bragman



Cynthia Koehler
President, Board of Directors

ATTEST:



Terrie Gillen
Secretary, Board of Directors