

**MARIN MUNICIPAL WATER DISTRICT**

**ORDINANCE NO. 455**

**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” ADDING ADDITIONAL WATER USE RESTRICTIONS**

**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 reservoir storage 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, and Ordinance No. 454 establishing water use limits and associated penalties. The purpose of this ordinance is to amend previously adopted water use restrictions to further reduce outdoor water use for irrigation and the filling of swimming pools to help the District preserve remaining water supply given the uncertainty of future water supply conditions due to drought.

**SECTION 2. Section 13.04.020(1)(N) of the Marin Municipal Water District Code entitled “Drought water waste prohibitions” is hereby deleted and replaced in its entirety to read as follows:**

**13.04.020(1)(N)** June 1 through November 31<sup>st</sup>, operating outdoor sprinkler irrigation systems delivering overhead spray more than one day within any calendar week, as assigned by the District, and drip irrigation more than two days per week within any calendar week, but excluding hand-watering. December 1st through May 31st, operating outdoor sprinkler irrigation systems delivering overhead spray and drip irrigation, but excluding hand-watering. For the purpose of this section, “calendar week” shall mean a period running from Monday-Sunday. These irrigation restrictions equally apply to any new landscaping. It is therefore strongly encouraged that all District customers refrain from installing any new landscaping during the current drought conditions as the water user restrictions set forth in this section may not provide sufficient water use necessary for newly planted landscapes to survive.

**SECTION 3. Section 13.04.020(1)(O) of the Marin Municipal Water District Code entitled “Drought water waste prohibitions” is hereby added to read as follows:**

**13.04.020(1)(O)** Refilling a completely drained swimming pool and initial filling of any swimming pool for which application for a building permit was made after December 1, 2021.

**SECTION 4. Subsections 13.04.040(1) and (2) of the Marin Municipal Water District Code entitled “Enforcement” is hereby deleted and replaced in its entirety to read as follows:**

**13.04.040(1)**

(A) First Notice—Warning Letter. Any customer violating the regulations and restrictions on water use set forth in Section 13.04.020, other than subsections (1)(B) and 1(O), of this chapter shall receive a written warning informing them of the violation for the first such violation and warning that a second such violation will result in a penalty.

(B) Notice of Violation. If, after receiving a written warning of violation for the same category of violation within one year, the district shall issue a Notice of Violation imposing a \$25.00 fine on the customer’s next water bill.

(C) Fine for Filling Swimming Pools. Notwithstanding the foregoing, as of December 1, 2021, each violation of subsection 13.04.020(1)(O) shall result in an immediate fine of \$1,000.

(2) Repeat Violations. For customers found by the district to incur a further violation within the same category for which customer has already received a fine within the past year, customer shall be charged a fine of \$250.00 for each successive violation.

**SECTION 5. Findings of Necessity:** The Board of Directors, after considering all of the information and testimony presented at its October 19, 2021 meeting 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. Outdoor water use is more discretionary than indoor water use. Reductions in water use can be achieved by reducing outdoor uses including, but not limited to, irrigation and the filling of swimming pools.

D. Typically 15%-30% of water used for irrigating (water use outside the home) is wasted and the most typical cause of the waste is excess irrigation.

E. As of October 14, 2021, the District’s water storage level is 26,051 acre feet, which is 32.74% 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. Additional and continued conservation implemented as part of the water conservation program required by this ordinance is needed to preserve the District's water supply and assure water supply availability.

## II. Conservation Measures.

- A. 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.
- B. 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.
- C. 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.
- D. California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- E. The Board of Directors determines that this conservation program is a fundamental and necessary step in its on-going efforts to reduce overall water use District-wide, and preserve remaining water supplies given that future rainfall amounts are unpredictable.
- F. Mindful of the fact that water for outdoor irrigation and filling of swimming pools during the winter months is not an essential use and that in any given year the District's reservoirs store a two year supply of water, the Board determines that it reasonable and necessary to expand its conservation effort along the lines described in this ordinance to further preserve and conserve the District's water supply.

G. The adoption and enforcement of the water use restrictions contained in this ordinance is necessary to manage and conserve the District's water supply and ensure the sustainability and reliability of the same by preventing water waste.

**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) in that the Board of Directors find that these measures are necessary to preserve water supply to avoid a more severe 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 19th day of October, 2021, by the following vote of the Board of Directors:

**AYES:** Directors Larry Bragman, Jack Gibson, Monty Schmitt, Larry Russell, and Cynthia Koehler

**NOES:** None

**ABSENT:** None

  
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Cynthia Koehler  
President, Board of Directors

**ATTEST:**

  
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Terrie Gillen  
Secretary, Board of Directors