

MARIN MUNICIPAL WATER DISTRICT

ORDINANCE NO. 461

AN ORDINANCE AMENDING CHAPTER 13.02 ENTILED “WATER CONSERVATION AND DRY YEAR WATER USE REDUCTION PROGRAM” OF TITLE 13 OF THE MARIN MUNICIPAL WATER DISTRICT CODE ENTITLED “WATER SERVICE CONDITIONS AND WATER CONSERVATION MEASURES” ADOPTING ENHANCED WATER CONSERVATION MEASURES PURSUANT TO WATER CODE SECTION 375

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

SECTION 1. Purpose: The purpose of Ordinance No. 461 (Ordinance) is to enhance the District’s normal year, ongoing t, water conservation measures to conserve water supply for beneficial uses and reduce water waste consistent with Article X, Section II of the California Constitution and Water Code Section 375.

SECTION 2. Section 13.02.020 of the Marin Municipal Water District Code entitled “Water Waste Prohibitions” is hereby deleted and replaced in its entirety to read as follows:

No customer of the district shall make, cause, use or permit the use of potable water from the district for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this section.

- (1) Prohibited Nonessential Uses Applicable to Customers. It is unlawful for any person, firm, partnership, association, corporation, or political entity to use potable water from the district for the following nonessential uses:
 - (A) The washing of sidewalks, walkways, driveways, parking lots and all other hard surfaced areas by direct hosing, except as may be permitted by current regulations pertaining to urban water runoff pollution prevention as defined by the Marin County Stormwater Pollution Prevention Program and other controlling agencies.
 - (B) The escape of water through breaks or leaks within the consumer’s plumbing or private distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of forty-eight hours after the consumer discovers such a leak or break, or receives notice from the district of such leak or break, whichever occurs first, is a reasonable time within which to correct such leak or break.
 - (C) Non-recycling decorative water fountains.
 - (D) Restrictions on Irrigation. Irrigation shall not be conducted in a manner or to an extent that allows water to run off or overspray the areas being watered. Every consumer is required to have his or her water distribution lines and facilities under control at all times to avoid water waste.

- (E) Any excess water runoff flowing onto the public right-of-way at a rate of one gallon per minute or greater not caused by storm water or naturally occurring groundwater, is prohibited.
 - (F) Using a garden hose without a shut-off nozzle.
 - (G) Landscape irrigation between the hours of 9:00 a.m. and 7:00 p.m.
 - (H) Operating outdoor sprinkler irrigation systems delivering overhead spray more than two days within any calendar week and drip irrigation more than three days per week within any calendar week, but excluding hand-watering. For the purpose of this section, “calendar week” shall mean a period running from Monday-Sunday.
 - (I) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall.
 - (J) Irrigating ornamental turf on public street medians.
- (2) Restrictions on Reverse Osmosis Units. The installation of reverse osmosis water purifying systems not equipped with an automatic shutoff unit is prohibited.
- (3) The following are prohibited for new connections:
- (A) Single pass cooling systems for air conditioning or other cooling system applications unless required for health or safety reasons;
 - (B) Non-recirculating systems for conveyer carwash applications.
- (4) Exemption From Daytime Water Prohibition. Notwithstanding anything contained in this Title 13, testing and repairing irrigation systems for the purpose of eliminating water waste is permitted during the hours of 9:00 a.m. and 7:00 p.m.
- (5) Sewer cleaning/flushing should be done using recycled water when available without hauling by truck and whenever reasonably possible.

SECTION 3. Subsection (3)(C) of Section 13.02.021 of the Marin Municipal Water District Code entitled “Water Conservation: Normal Year Water Conservation” is hereby deleted and replaced in its entirety to read as follows:

13.02.021(3)(C)

Pool and Spa Covers. All recreational pools and spas shall have covers, subject to the variance provisions as set forth in section 13.02.050.

SECTION 4. Section 13.02.050 of the Marin Municipal Water District Code entitled “Variances” is hereby deleted and replaced in its entirety to read as follows:

The district may grant variances for use of water otherwise prohibited by this chapter if it is found and determined that:

- (1) Failure to do so would cause an unnecessary and undue hardship on applicant or the public, including, but not limited to, adverse economic impacts; or
- (2) Failure to do so would cause an emergency condition affecting the health, sanitation, fire protection or safety of the applicant or the public; or

Any request for a variance shall be submitted to the district in a writing providing sufficient detail regarding the request and the reasons therefor. After consideration of the variance request, a written decision shall be provided to the customer rejecting, partially approving or approving the variance request. If the customer disagrees with the initial determination, the customer may avail themselves of the appeal process set forth in Section 13.02.090.

SECTION 5. Section 13.02.060 of the Marin Municipal Water District Code entitled “Enforcement” is hereby deleted and replaced in its entirety to read as follows:

(1) For violations of the provisions set forth in chapter, other than section 13.02.020(1)(B), the following enforcement procedures shall apply:

(A) First Notice—Warning Letter. Any customer violating the regulations and restrictions on water use set forth in this chapter, other than section 13.02.020(1)(B), 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.

(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.

(3) Additional Enforcement Procedures.

(A) Failure by the customer to correct the violation and pay the applicable fine, after following the procedures set forth above in this section, may cause the district to install a flow restrictor to be installed in the service. If a flow restrictor is placed, a charge of \$150.00 for cost of installation and an additional \$150.00 cost for removal shall be paid by the violator.

(B) Any willful violation occurring subsequent to the issuance of the third written notice of violation may constitute a misdemeanor and may be referred to the Marin County District Attorney’s office for prosecution. An individual convicted shall be punished by

imprisonment in the County Jail for not more than 30 days, or by a fine not exceeding \$1,000.00 or both.

(C) The district may also disconnect the water service pursuant to Section 11.28.020 of this Code. If water service is disconnected, it shall be restored only upon payment of the turn-on charge fixed by the Board of Directors under the provisions of Section 11.08.150 of this Code.

SECTION 6. Section 13.02.090 of the Marin Municipal Water District Code entitled "Appeals" is hereby deleted and replaced in its entirety to read as follows:

Customers may appeal a decision regarding a variance or an enforcement action by following the procedures set forth below:

(A) Within 30 calendar days of the variance denial or partial denial or a notice of violation, customer shall mail a written appeal containing all applicable evidence supporting their position to the Water Efficiency Department at 220 Nellen Avenue, Corte Madera, CA 94925. For purposes of this section an appeal shall be deemed received by the district on the day of post-mark by the U.S. Postal Service.

(B) The district shall respond to the appeal in writing either denying, granting or partially granting the appeal. If customer disputes the initial written determination of his/her appeal, then customer may request a further appeal by submitting a further writing to the district within 15 calendar days from the date of the initial written response to the appeal.

(C) Upon receipt of a timely further appeal, a hearing on the appeal will be scheduled and the district will mail notice of this date to the customer at least 10 calendar days before the hearing.

(D) The General Manager or designee shall conduct a hearing on the appeal considering all applicable facts and issue a written decision containing his or her decision on the appeal. The General Manager's or designee's decision shall be final.

(E) Any action not timely appealed shall be deemed final.

(F) Pending receipt of a written appeal or pending hearing pursuant to an appeal, the district may take appropriate steps to prevent unauthorized use of water as appropriate to prevent waste.

(G) This notice and hearing procedure shall not apply to those water waste situations charged as misdemeanors.

SECTION 7. Direction to Review Section 13.02.020(1)(K): The Board finds that while current practices and the lack of broader availability of recycled water do not warrant a more stringent requirement for use of potable water for sewer cleaning/flushing at this time, there should be continued efforts and collaboration among the District and its partner agencies towards the eventual discontinuance of potable water use for this activity. The Board therefore calls for the review of section 13.02.020(1)(K) within five years from the effective date of this ordinance to consider progress to this end and whether the District Code should be updated.

SECTION 8. Findings of Necessity: The Board of Directors, after considering all of the information and testimony presented at its May 3, 2022 meeting regarding this Ordinance, finds as follows:

- 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 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- C. The Board of Directors determines that this enhanced water conservation program is a fundamental and necessary step in its on-going efforts to reduce overall water use District-wide.
- D. 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 9. Environmental Determination: This project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and based upon the above findings and purpose of this ordinance, qualifies for an exemption pursuant to Section 15061(b)(3) of the CEQA Guidelines as there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 10. 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 11. 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 3rd day of May, 2022, by the following vote of the Board of Directors.

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

NOES: None

ABSENT: None



Larry L. Russell
President, Board of Directors

ATTEST:



Terrie Gillen
Secretary, Board of Directors