

**NORTH MARIN WATER DISTRICT
WEST MARIN SERVICE AREA
EMERGENCY WATER CONSERVATION ORDINANCE NO. 39**

Adopted May 5, 2020
Amended March 16, 2021

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EMERGENCY WATER CONSERVATION ORDINANCE

ORDINANCE NO. 39

AN ORDINANCE OF NORTH MARIN WATER DISTRICT DECLARING THE EXISTENCE OF A WATER SHORTAGE EMERGENCY CONDITION WITHIN THE WEST MARIN SERVICE AREA OF THE DISTRICT, PROHIBITING THE WASTE AND NON-ESSENTIAL USE OF WATER, AND PROVIDING FOR THE CONSERVATION OF THE WATER SUPPLY OF THE DISTRICT

BE IT ORDAINED by the Board of Directors of North Marin Water District as follows:

Section 1. Declaration of a Water Shortage Emergency

This Board of Directors does hereby find and declare as follows:

(a) On May 5, 2020, the Board of Directors held a public hearing and adopted Ordinance 39 declaring a water shortage emergency condition exists and prevails within the portion of the territory of this District served by wells adjacent to Lagunitas Creek. Said portion of this District is hereinafter referred to as the West Marin Service Area and consists in all the territory of this District generally known as Point Reyes Station, Inverness Park, Olema, Bear Valley and Paradise Ranch Estates. Said water shortage exists by reason of the fact that the ordinary demands and requirements of the water consumers in the West Marin Service Area cannot be met and satisfied by the water supplies available to this District in the West Marin Service Area without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation and fire protection.

(b) On May 5, 2020 the Board of Directors also enacted the North Marin Water District Water Shortage Contingency Plan for the West Marin Service Area (Plan) and said Plan defines specific triggers for stages of action applicable to District customers, and pursuant to this ordinance. The specific triggers for stages of action vary and are determined based on rainfall measured at the Marin Municipal Water District Kent precipitation gage, calendar period and water demands in the West Marin Service Area.

(c) A public hearing was held on March 16, 2021, on the matter of whether this Board of Directors should consider amending Ordinance 39, an emergency conservation ordinance for the West Marin water service area of this District which is served by wells adjacent to Lagunitas Creek.

(d) Notice of said hearing was published in the Point Reyes Light, newspaper of general circulation printed and published within said West Marin water service area of the District.

(e) At said hearing all persons present were given an opportunity to be heard and all persons desiring to be heard were heard.

(f) Said hearing was called, noticed, and held in all respects as required by law.

(g) This Board heard and has considered each protest against the proposed amendment and all evidence presented at said hearing.

Section 2. Purpose and Authority

The purpose of this ordinance is to conserve the water supply of the District for the greatest

public benefit with particular regard to public health, fire protection and domestic use, to conserve water by reducing waste, and to the extent necessary by reason of the existing water shortage emergency condition to reduce water use fairly and equitably. This ordinance is adopted pursuant to Water Code Section 350 to and including 358, Section 375 to and including 378, and Section 31026 to and including 31029.

Section 3. Effect of Ordinance

This ordinance, as amended, shall take effect on April 1, 2021, shall be effective only in the West Marin Service Area, shall supersede and control over any other ordinance or regulation of the District in conflict herewith, and shall remain in effect until the Board of Directors declares by resolution that the water shortage emergency condition has ended. This ordinance, and all provisions contained herein, may be modified by resolution of the Board of Directors. If any provision of this ordinance, including the rules and regulations attached hereto and incorporated herein, or any part thereof, is for any reason held to be ultra vires, invalid, or unconstitutional, the remaining provisions of this ordinance shall not be affected, but shall remain in full force and effect, and to this end the provisions of this ordinance are severable.

Section 4. Suspension of New Connections to the West Marin Service Area

(a) From July 1, 2021 until the Board of Directors by resolution declares that the water shortage emergency condition has ended, which period is hereinafter referred to as the suspension period, no new or enlarged connection shall be made to the West Marin Service Area except the following:

- (1) connection pursuant to the terms of connection agreements which prior to July 1, 2021, had been executed or had been authorized by the Board of Directors to be executed;
- (2) connections of fire hydrants;
- (3) connections of property previously supplied with water from a well which runs dry.
- (4) connection of property for which the Applicant agrees to defer landscape installation until after the suspension period.

(b) During the suspension period applications for water service will be processed only if the Applicant acknowledges in writing that such processing shall be at the risk and expense of the Applicant and that if the application is approved in accordance with the District's regulations, such approval shall confer no right upon the Applicant or anyone else until the suspension period has expired, and that the Applicant releases the District from all claims of damage arising out of or in any manner connected with the suspension of connections.

(c) Upon the expiration of the suspension period, the District will make connections to its water system in accordance with its regulations and the terms of connection agreements for all said applications approved during the suspension period. The water supply then available to the District will be apportioned equitably among all the customers then being served by the District without discrimination against services approved during the suspension period.

(d) Nothing herein shall prohibit or restrict any modification, relocation or replacement of a connection to the District's system if the General Manager determines that the demand upon the District's water supply will not be increased thereby.

Section 5. Waste of Water Prohibited

No water furnished by the District shall be wasted. Waste of water includes, but is not limited to, the following:

(a) The washing of sidewalks, walkways, driveways, parking lots and other hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety;

(b) The escape of water through breaks or leaks within the customers’ 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 seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the District, is a reasonable time within which to correct such break or leak, or, as a minimum, to stop the flow of water from such break or leak;

(c) Irrigation in a manner or to an extent which allows excessive run-off of water or unreasonable over-spray of the areas being watered. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of his/her water use and any run-off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;

(d) Washing cars, boats, trailers or other vehicles and machinery directly with a hose not equipped with a shutoff nozzle;

(e) Water for non-recycling decorative water fountains;

(f) Water for new non-recirculating conveyor car wash systems;

(g) Water for new non-recirculating industrial clothes wash systems;

(h) Water for single pass coolant systems;

(i) Potable water for outdoor landscaping during or within 48 hours of measurable rainfall;

(j) Potable water on ornamental turf in public street medians;

(k) Drinking water other than on request in eating or dining establishments;

(l) Water for the daily laundering of towels and linens in hotels and motels without offering guests the option of choosing not to have daily laundering.

Section 6. Prohibition of Non-Essential Use of Water

(a) No water furnished by the District shall be used for any purpose declared to be non-essential by this ordinance, or resolution modifying this ordinance, for the following stages of action as determined by the Board of Directors after considering specific triggers consistent with the Water Shortage Contingency Plan for the West Marin Service Area.

Stage 1 - Voluntary Stage (15% reduction). Achieve 15% reduction in water usage compared to the corresponding billing period in 2013 by encouraging voluntary rationing, enforcement of water wasting regulations and water conservation Regulation 17, requesting customers to make conscious efforts to conserve water, request restaurants to serve water only

upon request, encourage private sector to use alternate source and encourage night irrigation.

Stage 2 - Mandatory Stage (25% reduction)

(b) The following uses are declared to be non-essential from and after July 1 through November 1:

- (1) washing sidewalks, driveways, parking areas, tennis courts, patios or other exterior paved areas except by the Marin County Fire Department or other public agency for the purpose of public safety;
- (2) refilling a swimming pool completely drained after July 1, 2020;
- (3) non-commercial washing of privately-owned motor vehicles, trailers and boats except from a bucket and except that a hose equipped with a shut-off nozzle may be used for a quick rinse.
- (4) Request restaurants to serve water only upon request.

(c) The following additional uses are declared to be non-essential from and after July 1, 2020:

- (1) any use of water from a fire hydrant except for fighting fires, human consumption, essential construction needs or use in connection with animals;
- (2) watering of any lawn, garden, landscaped area, tree, shrub or other plant except from a handheld hose equipped with an automatic shut-off nozzle, container or drip irrigation system except overhead sprinkler irrigation can be used if customer maintains an overall 25% reduction in water use compared to the corresponding billing period in 2013, (customers using less than 200 gallons per day are permitted to water their landscape without a 25% reduction) and properly operates the irrigation system in a non-wasteful manner between the hours of 7:00 p.m. and 9:00 a.m. the next day. If sprinkler water is used in a wasteful manner, the General Manager may prohibit sprinkling by that customer.
- (3) Irrigating landscape more than 3 days per week or within 48 hours of measurable rainfall.
- (4) Irrigating lawn area on public street medians.
- (5) use of water for dust control at construction sites;
- (6) initial filling of any swimming pool for which application for a building permit was made after May 5, 2020;
- (7) use by a vehicle washing facility in excess of 25% less than the amount used by it during the corresponding billing period in 2013. If the facility was not operating in 2013, an assumed amount shall be computed by the District from its records.
- (8) any non-residential use in excess of 25% less than the amount used by the customer during the corresponding billing period in 2013. If connection to the District system was not in existence or use in 2013, an assumed amount will be computed from the District's records.
- (9) Intertie deliveries to Inverness Public Utilities District (IPUD), except for critical needs as determined by the General Manager
- (10) Deliveries to customers outside the service area except as needed for human consumption, sanitation and public safety or as stipulated in outside service agreements.

Stage 3 - Severe Mandatory Rationing (50% reduction)

(d) From and after the date that the Board of Directors, by resolution, determines that the water shortage emergency requires severe rationing, the following additional uses are declared to be non-essential:

- (1) Watering any residential lawn, or any commercial or industrial area lawn maintained for aesthetic purposes, at any time of the day or night during the period of August 1, through October 31, when a Stage 3 is in progress.
- (2) Planting any new landscaping, except for designated drought resistant landscaping prescribed by the District.(3) All day and nighttime sprinkling will be discontinued. Any and all outside watering will be done only with a hand-held nozzle. An exception will be made for carefully timed drip irrigation for established perennial plants and trees. Only sufficient water for assured plant survival may be applied.
- (4) No new annual plants, vegetables, flowers or vines may be planted during the Stage 3 emergency period. An exception will be made for customers who are eliminating existing thirsty landscaping and replacing same with drought resisting landscaping prescribed by the District, as in (2) above.

The combined rationing including Stage 1, 2, and 3 is designed to achieve a minimum reduction of 50% or more in West Marin service territory water consumption as compared with normal year annual usage.

(e) The percentages stipulated in Stage 2 and Stage 3 may be increased by the General Manager for any class of customer if the General Manager determines that such increase is necessary to protect the public health, safety and welfare or to spread equitably among the water users of the District the burdens imposed by the drought and the shortage in the District's water supply.

Section 7. Variances

Applications for a variance from the provisions of Section 6 of this ordinance may be made to the General Manager. The General Manager may grant a variance to permit a use of water otherwise prohibited by Section 6 if the General Manager determines that the variance is reasonably necessary to protect the public health and safety and/or economic viability of a commercial operation. Any decision of the General Manager under this section may be appealed to the Board of Directors.

Section 8. Violations

(a) After the publication or posting of this ordinance as provided in Water Code Section 31027, it is a misdemeanor for any person to use or apply water received from the District contrary to or in violation of Section 5 or Section 6 of this ordinance. Pursuant to the authority provided in Government Code section 53069.4, the District may impose administrative fines and penalties against any person found to be in violation of this ordinance. The purpose of the administrative fines and penalties assessed pursuant to this ordinance is to assure future compliance by customers through the imposition of increasingly significant fines and penalties so as to create a meaningful disincentive to commit future violations of the rules and regulations contained and referenced herein.

(b) If and when the District becomes aware of any violation of any provision of Section 5 or 6 of this ordinance, a verbal warning will be given, then if the violation continues or is repeated, a

written notice shall be placed on the property where the violation occurred and mailed to the person who is regularly billed for the service where the violation occurs and to any other person known to the District who is responsible for the violation or its correction. Said notice shall describe the violation and order that it be corrected, cured and abated immediately or within such specified time as the General Manager determines is reasonable under the circumstances. If said order is not complied with, the District shall impose an administrative fine of not more than two hundred fifty dollars (\$250) for a first offense, and five hundred dollars (\$500) for a second offense, and may disconnect the service where the violation occurs.

(c) A fee of \$35 during normal business hours and \$60 during after-hours and weekends shall be paid for the first reconnection of any service disconnected pursuant to this ordinance during the suspension period. For each subsequent disconnection, the fee for reconnection shall be \$35 during normal business hours and \$60 during after-hours and weekends.

(d) No service which is disconnected twice because of a violation of Section 5 or 6 of this ordinance during the suspension period, shall be reconnected unless a device supplied by the District which will restrict the flow of water to said service is installed. Furthermore, the fee for installation of such a flow restriction device during the suspension period shall be \$100 in addition to the fee required by subsection (c) hereof.

(e) Violations of this ordinance, and the rules and regulations contained and referenced herein, shall remain subject to administrative fines and penalties, until this ordinance has been repealed, or the Board of Directors declares by resolution that the water shortage emergency condition has ended. Violations pursuant to other District rules, regulations, or federal or state law shall not be affected by this section and shall continue to be enforced pursuant to their terms. The District reserves the right to pursue, in its sole discretion, any additional remedies available to it by law, including criminal, civil, and administrative remedies as necessary.

(e) District determinations made pursuant to this Ordinance may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.

Section 9. Signs on Lands Supplied from Private Wells

The owner or occupant of any land within the West Marin water service area that is supplied with water from a private well shall post and maintain in a conspicuous place thereon a sign furnished by the District giving public notice of such supply.

Section 10. Drought Surcharge

Notwithstanding anything to the contrary in District Regulation 54, in the event a mandatory reduction in water use is triggered under the District's Water Shortage Contingency Plan for the West Marin Service Area, a Drought Surcharge may be implemented by resolution of the Board of Directors simultaneous with, or subsequent to, enactment of the mandatory stage, in the sole discretion of the Board of Directors. The Drought Surcharge will serve to mitigate the revenue loss resulting from a reduction in water use, as well as to offset the cost for water purchased from Marin Municipal Water District (MMWD) under the Interconnection Agreement between North Marin Water District and MMWD triggered by dry year conditions. The Drought Surcharge shall be a quantity charge for each 1,000 gallons as specified in District Regulation 54. Any Drought Surcharge shall be adopted and implemented in compliance with applicable law, including Article XIII C of the California Constitution.

* * * * *

I hereby certify that the foregoing is a true and complete copy of an ordinance duly and regularly adopted on May 5, 2020 and amended by the Board of Directors of North Marin Water District at a regular meeting thereof held on March 16, 2021 by the following vote:

AYES: Directors Baker, Fraites, Grossi, Joly, Petterle
NOES: None
ABSENT: None
ABSTAINED: None



(SEAL)

Theresa Kehoe
District Secretary
North Marin Water District