

MEMORANDUM

To: Board of Directors

From: Drew McIntyre, General Manager
Ryan Grisso, Water Conservation Coordinator

April 16, 2021

Subject: Resolution to Amend Emergency Water Conservation Ordinance 41 in the Novato Service Area

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RECOMMENDED ACTION: Adopt Resolution 21-XX Amending Emergency Water Conservation Ordinance No. 41 for the Novato Service Area

FINANCIAL IMPACT: None at this time

At the February 2, 2021 Regular Board Meeting, the Board received information on dry year conditions to-date in Novato and staff indicated local conditions are similar to those occurring in 2014. As evidenced in the updated dry year rainfall table provided in Attachment 1, there has been very little rainfall since February. At the February 16, 2021 meeting, the Board approved "backfeeding" Stafford Lake with Russian River water while it's available. The Board was also alerted that NMWD staff was reviewing the Novato Service Area Water Shortage Contingency Plan and consulting with legal counsel to determine the best course of action for 2021 given the continued dry year conditions. The resulting recommended action was to consider adoption of an Emergency Water Conservation Ordinance for the Novato Service Area that would declare a water shortage emergency, include prohibitions on water waste and non-essential use and reserve the option to subsequently approve detailed conservation measures by future resolution once the rainfall total ending April 1st was tallied and Sonoma County Water Agency (SCWA) water supply assessments had been determined in mid-April.

At the March 16, 2021 meeting, the Board held a public hearing and adopted Emergency Water Conservation Ordinance No. 41 (Attachment 2). Emergency Water Conservation Ordinance No. 41 (Ordinance 41) includes a declaration that a water shortage emergency conditions exists within the Novato Service Area, authorizes future suspension of new or enlarged connections to the system via resolution, prohibits waste of water, prohibits non-essential uses of water as determined by subsequent resolution, authorizes the imposition of administrative fines and penalties for violations of the Ordinance, and authorizes the Board of Directors to make subsequent modifications to Ordinance 41 by resolution.

Since the adoption of Ordinance 41, SCWA has indicated it will file a second Temporary Urgency Change Petition with the State Water Resources Control Board to continue reduction

of releases from Lake Mendocino, seek approval to reduce releases from Lake Sonoma, and which will also include a reduction in diversions from SCWA's Russian River water supply pumping facilities. This will likely result in a 20% reduction in Russian River deliveries compared to deliveries in 2020. To adequately respond to the continued, and worsening, water shortage emergency conditions, staff recommends amending Section 4 of Ordinance 41 to suspend new connections to the system as of July 1, 2021. Staff also recommends amending Section 6 of Ordinance 41 to include a "Stage 1" 20% voluntary reduction in water use from May 1 to June 30, a "Stage 2" mandatory 20% reduction in water use from July 1 to November 1, and add specific types of non-essential water use at Stage 2. The proposed amendments to Ordinance 41 are included in Resolution 21-XX (Attachment 3).

As in past drought years, staff will be taking a proactive approach and actively working with customers to help meet conservation goals and avoid violating the prohibitions on water waste and non-essential use. The District will be communicating the water shortage situation and prohibitions to the customers through the Spring Waterline newsletter, the website and through a social media campaign. Lawn signs will also be developed to identify those customers using well water and recycled water. Staff is developing a new online website form, which will enable customers to report activities that violate the prohibitions on water waste and non-essential use. Additionally, the District's new AMI system will help to better track and manage conservation levels and compliance with the prohibitions on water waste and non-essential use. Staff will also be patrolling, as time allows, and responding to observed prohibited water waste.

Recommendation

Adopt Resolution 21-XX Amending Emergency Water Conservation Ordinance No. 41 for the Novato Service Area.

Dry Year Rainfall

Water Year	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sep	Oct-Dec Total	Water Year Total
1976	3.16	0.35	0.68	0.26	2.29	1.06	2.06	0.00	0.00	0.00	0.54	0.28	4.19	10.68
1977	0.43	1.45	1.25	2.17	1.33	2.69	0.15	1.04	0.00	0.00	0.08	0.70	3.13	11.29
1991	0.28	0.46	1.63	0.51	4.22	9.39	0.87	0.13	0.31	0.00	0.28	0.00	2.37	18.08
2007	0.53	2.91	4.66	0.58	4.87	0.13	1.14	0.38	0.02	0.01	0.02	0.06	8.10	15.31
2012	2.04	2.53	0.10	3.40	2.08	5.69	0.47	0.00	0.00	0.00	0.01	0.00	4.67	16.32
2013	2.06	6.47	8.02	0.67	0.57	0.71	1.10	0.05	0.40	0.00	0.00	0.33	16.55	20.38
2014	0.00	1.21	0.92	0.03	7.84	2.56	1.00	0.01	0.00	0.00	0.00	0.30	2.13	13.87
2018	0.29	3.40	0.04	6.20	0.61	5.51	3.13	0.06	0.00	0.00	0.01	0.00	3.73	19.25
2020	0.00	2.39	11.13	1.89	0.00	1.69	1.08	0.64	0.00	0.00	0.07	0.00	13.52	18.89
2021	0.00	0.47	1.62	3.98	0.79	1.69							2.09	8.55

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**NORTH MARIN WATER DISTRICT
NOVATO SERVICE AREA
EMERGENCY WATER CONSERVATION ORDINANCE NO. 41**

Adopted March 16, 2021

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EMERGENCY WATER CONSERVATION ORDINANCE

ORDINANCE NO. 41

AN ORDINANCE OF NORTH MARIN WATER DISTRICT DECLARING THE EXISTENCE OF A WATER SHORTAGE EMERGENCY CONDITION WITHIN THE NOVATO 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) A public hearing was held on March 16, 2021, on the matter of whether this Board of Directors should declare a water shortage emergency condition exists within the Novato water service area of this District which is served by Stafford Lake and the North Marin Aqueduct.

(b) Notice of said hearing was published in the Marin Independent Journal, newspaper of general circulation printed and published within said water service area of the District.

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

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

(e) This Board heard and has considered each protest against the declaration and all evidence presented at said hearing.

(f) A water shortage emergency condition exists and prevails within the portion of the territory of this District served by Stafford Lake and the North Marin Aqueduct. Said portion of this District is hereinafter referred to as the Novato Service Area and consists in all the territory of this District except the portions hereof in the western part of Marin County denominated Annexations 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15 and 16 generally known as Point Reyes Station, Inverness Park, Olema, Oceana Marin, and territories on the east shore of Tomales Bay. Said water shortage exists by reason of the fact that the ordinary demands and requirements of the water consumers in the Novato Service Area cannot be met and satisfied by the water supplies available to this District in the Novato Service Area without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation and fire protection.

(g) On April 19, 2016 the Board of Directors enacted the North Marin Water District Water Shortage Contingency Plan for the Greater Novato Area (Plan) and said Plan defines specific triggers for stages of action applicable to District customers. The specific triggers for stages of action vary and are determined based on advice and action of Sonoma County Water Agency regarding water supply conditions on the Russian River and in Lake Sonoma from which approximately eighty percent of the District's water supply for the Novato Service Area is delivered through the North Marin Aqueduct.

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 shall take effect on April 1, 2021, shall be effective only in the Novato 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 District's Water System

(a) Until the Board of Directors declares by resolution that the water shortage emergency condition has ended, the Board of Directors may determine by resolution that no new or enlarged connection shall be made to the District's water system except under certain conditions.

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; and
- (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 resolution of the Board of Directors and in accordance with the Water Shortage Contingency Plan for the Greater Novato Service Area.

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 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 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.

Section 9. Signs on Lands Supplied from Private Wells or Recycled Water

The owner or occupant of any land within the Novato water service area that is supplied with water from a private well or with recycled water 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

In the event a mandatory reduction in water use is triggered (Stage 2 or Stage 3 herein), a Drought Surcharge will be implemented simultaneous with enactment of the mandatory stage. The Drought Surcharge will serve to mitigate the revenue loss resulting from a reduction in water use, as well as the liquidated damages assessed by the Sonoma County Water Agency pursuant to the water shortage and apportionment provisions of the Restructured Agreement for Water Supply. The Drought Surcharge shall be a quantity charge for each 1,000 gallons as specified in District Regulation 54.

* * * * *

I hereby certify that the foregoing is a true and complete copy of an ordinance duly and regularly adopted 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

RESOLUTION 21-XX

**RESOLUTION OF THE BOARD OF DIRECTORS OF
NORTH MARIN WATER DISTRICT
AMENDING ORDINANCE NO. 41**

WHEREAS, pursuant to Sections 350-358, 375-378, and 31026-31029 of the California Water Code, the Board of Directors (“Board”) of the North Marin Water District (“District”), following a properly noticed and duly held public hearing at its meeting on March 16, 2021, adopted Ordinance No. 41, thereby declaring a water shortage emergency condition within the Novato 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; and

WHEREAS, in adopting Ordinance No. 41, the Board reserved for itself the authority to modify Ordinance No. 41 and all provisions contained therein by resolution; and

WHEREAS, annual rainfall within the Novato Service Area is significantly below average to date and forecasts for the region indicate the Novato Service Area will receive very little rainfall for the foreseeable future; and

WHEREAS, the declared water shortage emergency condition within the Novato Service Area continues to exist.

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of Directors of the North Marin Water District finds and determines that the foregoing Recitals are true and correct, and incorporates the Recitals herein.
2. Section 4 and Section 6 of Ordinance No. 41 are hereby amended as indicated in **EXHIBIT A**, attached hereto and incorporated by this reference.
3. This Resolution shall be effective immediately upon adoption and shall remain in effect until such time as modified, repealed, or superseded by further resolution of the Board.

* * * * *

I hereby certify that the foregoing is a true and complete copy of a resolution duly and regularly adopted by the Board of Directors of NORTH MARIN WATER DISTRICT at a regular meeting of said Board held on the 20th of April 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

Theresa Kehoe, District Secretary
North Marin Water District

(SEAL)

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EXHIBIT A

Section 4. Suspension of New Connections to the Novato Service Area

(a) Until the Board of Directors declares by resolution that the water shortage emergency condition has ended, the Board of Directors may determine by resolution that no new or enlarged connection shall be made to the District's water system except under certain conditions.

(b) As provided for in Section 4(a) above, from July 1, 2021 until the Board of Directors by resolution declares that the water shortage has ended, which period is hereinafter referred to as the suspension period, no new or enlarged connection shall be made to the Greater Novato 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 potable water irrigated landscape installation until after the suspension period.

(c) 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.

(d) 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.

(e) 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 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 resolution of the Board of Directors and in accordance with the Water Shortage Contingency Plan for the Greater Novato Service Area.

Stage 1 - Voluntary Stage (20% reduction). May 1 through June 30: Achieve 20% reduction in water usage compared to the corresponding billing period in 2020 by encouraging voluntary rationing, enforcement of water wasting regulations and water conservation Regulation 15, requesting customers to make conscious efforts to conserve water, encourage private sector to use alternate sources, and encourage night irrigation.

(b) As provided for in Section 6(a) above, the following uses are declared to be non-essential from and after July 1 through November 1:

Stage 2: Mandatory Stage (20% reduction)

EXHIBIT A

(1) Refilling a completely drained swimming pool and/or initial filling of any swimming pool for which application for a building permit was made after July 1, 2021;

(2) 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;

(3) Any use of potable water from a fire hydrant except for fighting fire, human consumption, essential construction needs or use in connection with animals;

(4) Watering of any potable water irrigated lawn, garden landscaped area, tree, shrub or other plant except from:

a. A handheld hose equipped with an automatic shut-off nozzle;

b. A container;

c. A drip irrigation system; or

d. An overhead sprinkler irrigation system used more than three (3) days per week.

i. Odd numbered street addresses are authorized to irrigate using an overhead sprinkler irrigation system on Monday, Wednesday and Friday and even numbered street addresses are authorized to irrigate using an overhead sprinkler irrigation system on Tuesday, Thursday and Saturday provided that the customer maintains an overall 20% reduction in water use compared to the corresponding billing period in 2020 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.

ii. Exemptions may be granted for irrigation of commercial or government owned recreational landscape areas provided a 20% reduction in water use compared to the corresponding billing period in 2020 is maintained.

iii. Customers using less than 300 gallons per day are permitted to water their landscapes without the required 20% reduction).

(5) Use of potable water for dust control at construction sites or other locations; and

(6) Watering any portion of a golf course with potable or raw water except the tees and greens unless the customer can maintain a 25% reduction in water use as compared to 2020.