

MARINA COAST WATER DISTRICT

ORDINANCE NO. 40

AN ORDINANCE AMENDING CHAPTER 3.36
OF THE
DISTRICT CODE

Be it ordained by the Board of Directors of
Marina Coast Water District
as follows:

Section 1. Authority. This ordinance is enacted pursuant to Sections 375, 375.5 and 30000 and following of the California Water Code.

Section 2. Findings.

A. This ordinance is considered for action by the Board of Directors at a regularly scheduled and noticed meeting. The agenda was posted in accordance with County Water District law with opportunity for public review in advance of the meeting and public comment during consideration of the ordinance by the Board. The District has followed the procedures for notice, public participation and adoption set forth in Section 375 of the California Water Code.

B. The protection, conservation, and replenishment of the underground water supplies is one of the main functions of a County Water District. (Atchinson Etc. Ry Co. V. Kings Co. Water District, (1956) 47 Cal. 2d 140, 146). The District has the power to perform all acts necessary to carry out fully the provision of the County Water District Law (Water Code 31001), may establish rules and regulations for the distribution and use of water (Water Code 31024), may undertake a water conservation program to reduce water use (Water Code 31035), and may commence and maintain actions and proceedings to prevent interference with or diminution of any natural subterranean supply of water which may (a) be used or useful for any purpose of the District, (b) be of common benefit to the land or its inhabitants, or (c) endanger the inhabitants or land (Water Code 31082).

Wasteful water use practices in the area served by the District constitute a potential threat to, and an unacceptable diminution of the District's underground water supplies. The prevention of water waste is an economically and environmentally feasible way to protect, conserve and prevent unacceptable diminution of the District's underground water supplies.

D. Contamination, seawater intrusion, or failure of the water system infrastructure may lead to a potable water shortage emergency in the District's groundwater supplies.

E. Based upon the above findings, the District legal counsel advises, and the Board finds, that actions taken pursuant to this ordinance are categorically exempt from CEQA according to 14 California Code of Regulations 15301 and 15307.

Section 3. Purpose Of Ordinance. The purpose of this ordinance is to amend the District Code, Chapter 3.36 to include water conservation requirements for New Construction and provide a revised Water Shortage Contingency Plan.

Section 4. General Provisions. Chapter 3.36 of the District Code is hereby amended as follows:

(i)Chapter 3.36

WATER CONSERVATION

Sections:

- 3.36.010 Purpose.**
- 3.36.020 Application.**
- 3.36.030 Mandatory restrictions on water waste.**
- 3.36.035 Water Shortage Contingency Plan**
- 3.36.040 Enforcement and administration.**
- 3.36.050 Violations and notices.**
- 3.36.060 Nuisances, abatement, injunctive relief.**

3.36.010 Purpose.

The purpose of this chapter is to establish standards and procedures for water conservation, to reduce or eliminate the waste of water in the District, and enable implementation of the District's Water Shortage Contingency Plan. (Amended during 3.02 supplement: Ord. 25 § 3, 1993; Resolution No. 2005-40 amended the WSC Plan.)

3.36.020 Application.

A. This chapter shall apply within the District, and compliance with the provisions of this chapter shall be a condition of water service within the District and in all areas outside the District to which the District provides water service.

B. The District shall work cooperatively with the Fort Ord Reuse Authority and other land use jurisdictions within the Ord Community Service area including the Cities of Seaside, Del Rey Oaks, Marina, and Monterey; and UCMBEST; CSUMB; US Army; and the County of Monterey to facilitate the adoption of ordinances and regulations to conserve water, including inspection of installations made pursuant to this chapter. (Ord. 25 § 5, 1993)

C All references to *Standard Specifications* contained in this chapter shall refer to the latest versions of the District *Standard Plans And Specifications For Construction Of Domestic Water, Sewer, And Recycled Water Facilities and Procedures, Guidelines And Design Requirements*.

3.36.030 Mandatory restrictions on water waste.

A. Repair of Plumbing, Sprinkler and Irrigation System. Any owner, manager, or person responsible for the day-to-day operation of any premises shall within seventy-two (72) hours after such person first learns of such leaks, breaks, or defects, initiate steps to repair any leaking,

broken or defective water pipes, faucets, plumbing fixtures, other water service appliances, sprinklers, watering or irrigation systems, or distribution systems which cause or may cause water waste and shall thereafter diligently and promptly pursue such repair work to completion, unless a variance is obtained from the District.

B. Watering/Irrigation.

1. No person shall water grass, lawns, groundcover, shrubbery, and open ground between the hours of 10 AM and 5 PM except as provided below:

a. Persons may water between the hours of 10 AM and 5 PM using any of the following three methods:

- i. Drip irrigation;
- ii. By hand, using a bucket; and/or
- iii. By hand, using a hose with an automatic shutoff nozzle.

b. The General Manager may grant an administrative variance for methods other than those included in “a” above if:

i. The person requesting the variance is now using, or will use as a condition to the granting of the variance, water-conserving irrigation practices approved by the General Manager that minimize water evaporation losses, and that assure that no substantial amount of water is permitted to run off the area of application. Recycled Water use shall be in accordance with *Chapter 4.28 Recycled Water*.

ii. As a condition of granting a variance, the General Manager may require the water user to post, at locations conspicuous to view, notices of the variance.

c. In lieu of granting a variance, the General Manager may, at his/her discretion, refer a variance request directly to the Board for its decision.

2. No person shall allow grass, lawns, groundcover, shrubbery, and open ground to be watered at any time while it is raining.

3. No person shall use, suffer, or permit the use of water for agricultural irrigation in a manner or to an extent which substantially conflicts with or deviates from best management practices in the County of Monterey or which allows water to run to waste.

C. Washing of Vehicles. No person shall use a water hose to wash any car, truck, boat, trailer, bus, recreational vehicle, camper, aircraft, tractor, or any other vehicle, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle.

D. Cleaning of Structures. No person shall use water through a hose to clean the exterior of any building or structure unless such hose is equipped with a shutoff nozzle.

E. Cleaning of Surfaces. No person shall use water through a hose to clean any sidewalk, driveway, roadway, parking lot, or any other outdoor paved or hard surfaced area, except where necessary to protect public health or safety. The use of water from a bucket for cleaning food, grease, oil, or other stains or spillage from surfaces is permissible.

F. Water Spillage. No person shall cause, suffer, or permit water to spill into streets, curbs, or gutters. No person shall use any water in any manner that results in runoff beyond the immediate area of use. Every person is deemed to have under his/her control at all times his/her water distribution lines and facilities, and to know the manner and extent of his/her water use and excess runoff.

G. Swimming Pools and Spas. No person shall empty and refill a swimming pool or spa except to prevent or repair structural damage or to comply with public health regulations. All pools and spas shall be covered to prevent evaporative losses when not in use.

H. Fountains. No person shall use water to operate or maintain levels in decorative fountains, unless such water is recirculated in the fountain.

I. Visitor-Serving Facilities. The owner and manager of each hotel, motel, restaurant, convention and other visitor-serving facility shall ensure that such facility displays, in places visible to all customers, placards or decals approved by the District, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

J. Public And Quasi-Public Entities. All public and quasi-public entities shall display, in visible locations in all restrooms, kitchens, and dining areas, placards or decals approved by the District, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited. Placement of placards or decals by a quasi-public entity of a type not specifically mentioned in this chapter shall not be required unless the General Manager gives written notice to the entity that this chapter is applicable to the entity so notified and that placement of placards or decals is required.

K. Restaurants. Restaurants in the District shall not serve water to restaurant customers, except upon request of the customer.

L. Commercial Car Washes. No person in charge of the operation of any commercial car wash facility shall suffer or permit the washing of any boat or vehicle in such facility or on its premises, other than by the following methods.

1. Use of mechanical automatic car wash facilities utilizing water recycling equipment;
2. Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;
3. Use of a hose equipped with an automatic shutoff nozzle; and/or
4. Use of bucket and hand washing.

M. Construction.

1. No potable water may be used for compacting or dust control purposes in construction activities where there is a reasonably available source of recycled or other non-potable water approved by the California State Department of Health Services and appropriate for such use.

2. All water hoses used in connection with any construction activities shall be equipped with an automatic shutoff nozzle when an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose in use.

N. Use of Hydrants. No person may tap into any fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining written approval from the District Engineer or his/her designee.

O. Agricultural Dust Control. No potable water may be used for dust control purposes in agricultural activities where there is a reasonably available source of recycled or other non-potable water appropriate for such use.. Recycled Water use shall be in accordance with *Chapter 4.28 Recycled Water*.

P. Maintenance/Training. No person shall use water for routine water system flushing for normal maintenance, routine sewer system flushing for normal maintenance, and/or fire personnel training except as approved in advance in writing by the General Manager, District Engineer, or his/her designee.

Q. Indiscriminate Use. No person shall cause, suffer, or permit the indiscriminate running of water not otherwise prohibited above which is wasteful and without reasonable purpose.

R. Public Health and Safety. These regulations shall not be construed to limit water use which is immediately necessary to protect public health or safety.

S. New Construction.

1. In all New Construction, the following applies:

a. Only High Efficiency Toilets (HET) that meet the District's *Standard Specifications* shall be installed. Dual flush toilets qualify as HET.

b. There shall be one control valve, or one set of hot and cold valves required for each Low Flow Showerhead which shall be defined to provide no more than 2.5 gallon per minute.

c. A Hot Water Recirculation System or Point-of-Use Hot Water Heater shall supply water to hot water fixtures further than ten linear feet of pipe away from the hot water heater.

d. All urinals installed will be Zero Water Use Urinals, in that they shall not use water to flush waste.

e. All residential units equipped with clothes washer connections shall have installed High Efficiency (HE) Clothes Washer(s) meeting District *Standard Specifications*.

2. All New Construction shall conform with District *Standard Specifications* for *Landscaping and Irrigation Systems* and the requirements of the State of California Model

Landscape Ordinance, Title 23, Division 2, California Code of Regulations Chapter 2.7 or applicable local ordinances superseding the state ordinance.

T. New Additions, Renovations, or Remodels. This sub-section includes but is not limited to projects in which the replacement or addition of plumbing-fixtures is included.

1. All new additions, renovations, or remodels that involve any plumbing fixture additions and require District review and approval must install:

a. Ultra Low Flow Toilets (ULFT), High Efficiency Toilets (HET), or zero water use urinals (in place of water use urinals); and,

b. Low Flow Showerheads with a maximum flow capacity of 2.5 gallons per minute; and,

c. New additions, renovations, or remodels must also include the retrofitting of all existing toilets and showerheads with low flow showerheads, ULFT's or HET's.

2. All renovations/remodels that do not require plan checks by the District, but do involve a change in a toilet must replace at least that toilet with an ULFT or a HET. All renovations/remodels that do not require plan checks by the District, but do involve the change of a showerhead must replace at least that showerhead with a Low Flow Showerhead.

U. Retrofitting Existing Hotels/Motels and Apartment Buildings. All existing hotels/motels, and apartment buildings shall, within six and twelve (12) months, respectively, following the effective date of the ordinance codified in this chapter, be retrofitted with Low Flow Showerheads.

V. Retrofitting Upon Change of Ownership or Use.

1. All existing residential structures shall, at the time of ownership change, be retrofitted, if not already so, with HET's or ULFT's with a maximum tank size, flush volume, or flush system volume of 1.6 gallons per flush. Low Flow Showerheads with a maximum flow capacity of 2.5 gallons per minute shall be installed.

2. All existing commercial and industrial structures shall, at the time of ownership change or change of use, be retrofitted, if not already so, with HET's or ULFT's with a maximum tank size, flush volume, or flush system of 1.6 gallons per flush. Low Flow Showerheads with a maximum flow capacity of 2.5 gallons per minute shall be installed. High Efficiency Clothes Washing Machines using a maximum of 8.5 gallons of water per cubic foot of laundry, shall also be installed. All urinals will be retrofitted to zero water use urinals.

W. Metering.

1. New Construction.

a. Newly constructed multifamily dwelling units, including condominiums, and detached units (carriages houses/granny units) will be metered individually as of the effective date of the ordinance codified in this chapter.

b. Newly constructed motel/hotel units of less than one thousand (1000) square feet will be exempt from the requirement to individually meter.

c. Newly constructed hotel/motel units greater than or equal to one thousand (1000) square feet shall be separately metered.

d. Newly constructed time-share units will be separately metered.

2. Conversion of Existing Structures. The following existing units shall be individually metered upon conversion:

a. Multifamily units converted into condominiums or timeshare units;

b. Motel/hotel units converted into multifamily units, time-share units or condominiums;

c. Time-share units converted into multifamily units, condominiums or motel/hotel units;

d. Condominium units converted into multifamily units, time-share units or motel/hotel units.

3. Other Multifamily Water Uses. All other uses within multifamily dwelling complexes, such as irrigation systems and laundry rooms, shall be metered separately, subject to the approval of the District Engineer or his/her designee.

4. Meter Location. Meters shall be located at the property boundary or the public utility easement. Exact meter locations are subject to District Engineer approval or his/her designee.

5. Meter Type and Size. The District shall approve the size and type of meters required. The Owner shall pay for the meters and construct their connections in accordance with the District's *Standard Specifications*. (Ord. 33 § (4)(B)—(F), 1998; Ord. 25 § 6, 1993)

3.36.035 Water Shortage Contingency Plan

The District maintains a Water Shortage Contingency Plan in conformance with the Water Code Section 10632. Provisions of that Plan will be enforced through this Chapter.

3.36.040 Enforcement and administration.

The General Manager and all officers and employees of the District, including all exofficio officers and employees, shall enforce all the provisions of this chapter. The General Manager shall implement and administer this chapter. The General Manager shall report to the Board of Directors all factors which affect the implementation of this chapter and shall maintain a separate

file of violations of this chapter and a file of any requests for variances from this chapter. (Ord. 25 § 7, 1993)

3.36.050 Violations and notices.

A. If any person fails or refuses to comply with this chapter, the General Manager or his/her agent shall provide that person with written notice of the violation and an opportunity to correct the noncompliance. The written notice shall:

1. Be posted or presented at the site of the noncompliance;
2. State the time, date, and place of violation;
3. State a general description of the violation;
4. State the means to correct the violation;
5. State a date by which correction is required; and,
6. State the possible consequences of failing to correct the violation.

7. A copy of the written notice shall be mailed to the address of the violation, to the party who is billed for the water, or to the Owner of the property, as appropriate.

B. Each person who receives a written notice of violation shall pay to the District an administrative fee of twenty-five dollars (\$25.00) for the first notice and fifty dollars (\$50.00) for each subsequent notice. To encourage cooperative water conservation, the General Manager may waive payment of the fee for the first or second notice.

C. If a person fails to correct the violation within the time specified in the written notice, the General Manager shall take one or more of the following actions:

1. Give the person one or more additional written notices of the violation;
2. Refuse to initiate water service to the site of the violation, if water service has not yet begun or has been discontinued;
3. Terminate water service to the site of the violation, in accordance with the District's ordinances and procedures for terminating water service;
4. Abate the violation as a nuisance in accordance with Section 3.36.060 of this chapter;
5. Impose a use fee of four (4) times the regular water rate for each unit (hcf) of water that the District estimates is wasted. (Ord. 25 § 8, 1993)

3.36.060 Nuisances, abatement, injunctive relief.

A. Any violation of this chapter is declared to be a public nuisance.

B. The District may summarily abate the public nuisance and the District's attorney may, upon order of the Board of Directors, bring civil suit or other action to enjoin or abate the nuisance.

C. In a civil proceeding brought to abate a nuisance or to obtain injunctive relief under this chapter, any person who creates or maintains a public nuisance in violation of this chapter shall be liable for the costs of abatement, including but not limited to the following:

1. Costs of investigation;

2. Costs of labor and parts to repair any affected water system or premises, to bring such water system or premises into compliance with this chapter, or to install facilities necessary to assure compliance with this chapter;

3. Court costs;

4. Attorneys fees and costs, including the fees and costs of experts employed by the attorney; and,

5. Costs of monitoring compliance.

D. If any person causes, suffers, or permits a public nuisance to continue after written notice is given to such person by the District directing such person to cease the nuisance, and such continuation goes beyond the time set for abatement in the notice, then such person shall be liable to the District for the following:

1. The costs of abatement set forth above;

2. Any other costs of enforcement imposed by the court; and

3. A civil penalty of fifty (50) percent of those costs (subsections (D)(1) and (2) of this section), payable to the District. (Ord. 25 § 9, 1993)

a. Effective Date. This Ordinance shall take effect 60 days following adoption,

b. Publication and Posting. Within 15 days after adoption, the District shall publish, in a newspaper published in Monterey County and circulated within the district, a summary of this ordinance with the names of those directors voting for and against adoption, and shall post in the district office a certified copy of the full text of this ordinance as adopted along with the names of those directors voting for and against adoption.

c. Notice of Exemption. The Secretary is authorized and directed to give due notice of exemption of this ordinance from the provisions of CEQA, pursuant to Title 14, California Code of Regulations, section 15062.

d. Existing Charges. Existing fees and charges in effect when this ordinance is adopted shall remain in effect unless specifically changed by this ordinance.

e. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, or superseded by some other provision of law, such provisions shall be severed from and shall not affect the validity of the remaining provisions of this ordinance. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any other part thereof be unconstitutional or invalid, or superseded by some other provision of law. The parts of this ordinance which are not unconstitutional, invalid, or superseded shall remain in full force and effect and shall be enforced according to their terms.

f. Interpretation. Words and Phrases used in this ordinance shall be read conjunctively with and shall have the same meaning as in prior District ordinances and the District Code, unless specifically changed by this ordinance or unless the context requires some other construction. If there is any inconsistency between this ordinance and prior provisions, this ordinance shall control.

On motion of Director Scholl, seconded by Director Gustafson; the foregoing Ordinance is enacted and shall take effect upon adoption by the following roll call of the Board:

Ayes: Scholl, Brown, Gustafson, Moore, Nishi

Nays: None

Absent: None

Abstained: None

By Thomas P. Moore
Thomas P. Moore, President

ATTEST:

Michael D. Armstrong
Michael D. Armstrong, Secretary

CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was approved by the Board of Directors at their regular meeting on June 22, 2005.

Michael D. Armstrong
Michael D. Armstrong, Secretary

