

MARINA COAST WATER DISTRICT
ORDINANCE NO. 62

AN ORDINANCE AMENDING SECTIONS 1.04.010, 4.28.010,
4.28.020, 4.28.030, 4.28.040,
AND ESTABLISHING SECTIONS 4.28.050, 4.28.060, 4.28.070,
4.28.080, 4.28.090, 4.28.100, 4.28.110, 4.28.120
OF THE DISTRICT CODE PERTAINING TO
RECYCLED WATER SERVICE

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 30000 and following the California Water Code, and Section 6 of Article XIII D of the California Constitution.

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 the Brown Act with an opportunity for public review in advance of the meeting and public comment during consideration of the ordinance by the Board. The District has complied with the publication, notice, and hearing requirements of Section 66016 of the California Government Code and Section 31105 of the California Water Code.
- B. The District has the power generally to perform all acts necessary to carry out fully the provisions of the County Water District Law (Water Code § 31001), may adopt ordinances relating to the provision of sewer and recycled water services and facilities, and the regulation of those services and facilities (Water Code § 31105) and may undertake a water conservation program to reduce water use (Water Code § 31035).
- C. The Board of Directors finds that it is in the best interests of the District to adopt this ordinance.

Section 3. Purpose of Ordinance. The purpose of this Ordinance is to amend sections 1.04.010, 4.28.010, 4.28.020, 4.28.030, and 4.28.040; and establish sections 4.28.050, 4.28.060, 4.28.070, 4.28.080, 4.28.090, 4.28.100, 4.28.110, 4.28.120 to the recycled water District Code.

Section 4. General Provisions. Section 1.04.010 is hereby amended to read as follows:

1.04.010 Definitions.

The existing definition of "Available to existing water users" in Section 1.04.010 Definitions, Title 1, General Provisions, is hereby repealed and the following adopted in its place:

"Available to existing water users." Recycled water is deemed available to existing water users when the Marina Coast Water District has provided a service lateral from the recycled water

system to the property line and has installed a water meter for the recycled water to be used on the property, and the proposed use is authorized for recycled water use under Section 4.28.060.”

The existing definition of “Available to new water users” in Section 1.04.010 Definitions, Title 1, General Provisions, is hereby repealed and the following adopted in its place:

"Available to new water users." Recycled water is deemed available to new water users when the distance between the nearest recycled water line and the near edge of the parcel is less than the following distance: twenty-five feet plus the distance between the nearest potable water main and the near edge of the parcel and the property and the proposed use is authorized for recycled water use under Section 4.28.060.

Section 5. Recycled Water. Title 4. Recycled Water Sections 4.28.010, 4.28.020, 4.28.030, and 4.28.040 are hereby amended to read as follows:

4.28.010 Purpose and policy.

- A. Purpose. The purpose of this chapter is to establish the process, rules, and enforcement protocol for the safe use and operation of on-site recycled water systems. The goal of this chapter is to promote the use of recycled water consistent with the state of California’s mission to conserve water in accordance with Section 13550 et seq., of the California Water Code and Section 65602 (e) of the California Government Code. This chapter shall apply to all properties receiving recycled water services from the Marina Coast Water District (district).
- B. Policy. It is the policy of the district that recycled water shall be used for all approved uses whenever available within the district’s recycled water-use area. All recycled water use shall be consistent with legal requirements and the preservation of public health, safety, welfare, and the environment.
 - 1. Recycled water is deemed to be available when it meets the conditions outlined in Section 4.28.050 of this chapter and Section 13550 et seq., of the California Water Code, and Section 65602(e) of the California Government Code.
 - 2. Recycled water use areas within the district’s service areas are defined in Section 4.28.020 of this chapter, and Section 65603(a) of the California Government Code.

The district shall have the exclusive right to own and recapture any and all applied recycled water under this chapter that is deemed to percolate into the groundwater aquifer. In addition, the district shall have the exclusive right to claim groundwater credits for the delivery and use of recycled water that results in a cessation or reduction in the extraction of groundwater by the district pursuant to Water Code Section 1005.4.

4.28.020 Recycled water service areas.

The district shall designate Recycled Water Service Areas to encourage and expand the use of recycled water to meet district goals. The following provisions shall apply to the Recycled Water Service Areas:

- A. Establishment of Recycled Water Service Areas. The Recycled Water Service Areas

shall be established based upon an evaluation of the location and size of present and future wastewater treatment facilities, distribution pipelines, pump stations, storage facilities, and other related recycled water facilities. The district is authorized to establish such areas outside of the district's Central Marina and Ord Community service areas upon agreement with cities, agencies, and users to provide recycled water.

- B. Types of Uses of Recycled Water. Recycled water uses within the Recycled Water Service Areas may include, but are not limited to, irrigation, appropriate industrial, construction, and commercial uses as cited in Section 4.28.060.

4.28.030 Description of service.

- A. Supply. The district will endeavor, so far as is reasonably possible, to deliver a continuous supply of recycled water to the users at sufficient pressure at the meter, and to avoid any shortage or interruption in delivery.
- B. Quality. The district will endeavor to deliver recycled water that satisfies the applicable water quality requirements of the State Water Resource Control Board Division of Drinking Water (DDW) and the Central Coast Regional Water Quality Control Board (Regional Water Quality Control Board). The district shall bear no responsibility for damages or inconveniences that may occur due to the quality of the recycled water.
- C. Classes of Service. all services installed by the district will be classified as follows:
 - 1. Recycled Water Residential;
 - 2. Recycled Water Commercial;
 - 3. Recycled Water Industrial;
 - 4. Recycled Water Construction;
- D. Interruptions in Service. The district will not be liable for the interruption, shortage, insufficiency of supply, or for any loss or damage occasioned thereby. The district whenever it may find it necessary or convenient to make repairs or improvements to its system shall have the right to temporarily suspend delivery of recycled water and it shall not be liable for any loss or damage occasioned thereby. Repairs or improvements will be made as rapidly as is practicable and, so far as possible, at such times as will cause the least inconvenience to the users. Whenever possible and as time permits, all users affected will be notified before such shutdowns.

4.28.040 Service connections, charges, and fees.

- A. Service connections. Each user of recycled water shall be served through a separate meter connecting the public facility belonging to the district to the users' private recycled water on-site distribution system.
- B. Recycled water distribution pipelines which are deeded to and become the property and responsibility of the district, shall be constructed by a user for service only under the same circumstances and in the same manner as would be required for potable water service to the same property.
- C. Charges and fees. All charges and fees applicable to recycled water connection and use shall be as approved by the Board.

- D. Each such service shall require the establishment of a billing account in the district's accounting system. All charges for construction, metering, connection fees, capacity charges, recycled water usage charges, penalties, or other authorized charges for service provided shall be as approved by the Board.

Section 6. Recycled Water. Title 4. Recycled Water hereby establishes Sections 4.28.050, 4.28.060, 4.28.070, 4.28.080, 4.28.090, 4.28.100, 4.28.110, 4.28.120 as follows:

4.28.050 Recycled water service availability.

A. Existing Potable Water Users.

1. The owner must connect to the recycled water system when recycled water is deemed available to a property.
 - i. The owner must pay for the cost of completing this connection to the recycled water system.
 - ii. The owner must apply for an on-site recycled water use permit (permit) per Section 4.28.070 along with any required application fee to connect to the recycled water system.
 - iii. The district may require the use of recycled water for approved uses, however, users may be exempt from connecting to the recycled water system at the discretion of the district.
2. In the case that the owner does not agree to the terms of recycled water use outlined in the recycled water use permit or if the district determines that recycled water use is unavailable or infeasible, the district maintains the authority to reject the application and to refuse to provide recycled water services.

B. New Recycled Water Service Users.

1. If an owner requests recycled water service, the district maintains the authority to determine whether the property and the proposed use are authorized for recycled water use under Section 4.28.060 and whether or not recycled water services would otherwise be available or feasible.
 - i. If the district determines that recycled water services would be available, the owner is responsible for following the necessary procedures including filling out a recycled water use permit application per Section 4.28.070.
 - ii. Any additional requirements for recycled water use may be included as conditions of approval for the proposed installation, remodel, alteration, or change.
2. All new construction that also includes the construction of new private or public irrigation water systems, whether currently anticipating connection to the recycled system or which shall be connected to the potable water system temporarily while awaiting availability of recycled water, shall be constructed or retrofitted according to the district's procedure, guidelines, and design requirements and existing district design standard specifications.

4.28.060 Authorized uses and conditions of service.

- A. Authorized uses of recycled water include only those uses approved by the Regional Water Quality Board, DDW, and which meet the requirements of Title 22, Division 4 of the California Code of Regulations.
 - 1. Each such use will be considered for approval by the district on a case-by-case basis with the submittal of an on-site recycled water use permit application (permit application) per Section 4.28.070. Before approval, the user must comply with the requirements established by this chapter and any other requirements imposed by the district, Regional Water Quality Board, DDW, or any other regulatory agencies that have jurisdiction over such use.
 - 2. The district's General Manager is authorized to determine whether certain classifications of uses are authorized uses.
- B. The user must obtain a recycled water-use permit from the district to receive recycled water service. The recycled water use shall be subject to the conditions of service outlined in this chapter, all applicable state and local recycled water use requirements, and any additional terms and conditions specific to the user established in the recycled water use permit.
 - 1. Recycled water service for dual plumbed systems, including residential landscape irrigation, shall be subject to additional requirements as defined in Title 22, Division 4, Chapter 3, Article 5 of the California Code of Regulations.

4.28.070 Recycled water use permits.

- A. All users required or agreeing to receive recycled water shall obtain an on-site recycled water-use permit from the district and shall be subject to all the conditions outlined in the permit and this chapter. A permit is non-assignable and not transferable at the time of change of ownership and/or management of the on-site recycled water facilities.
- B. To obtain a permit, users are responsible for completing a permit application form provided by the district. The information supplied by the user shall be considered authoritative and final. If any error in such application shall cause the installation of a service connection that is improper, either in size or location, the cost of all changes required shall be borne by the user. The steps for obtaining a permit are as follows:
- C. The user completes and submits a permit application, including all required information and supporting documents as outlined in the district's *Engineering Procedures, Guidelines, and Design Requirements*, the district's *Recycled Water User's Rules of Service*, and any other information pertinent to the use of recycled water as requested by the district;
 - 1. Applications for dual plumbed use, including residential landscape irrigation, are subject to additional application requirements including additional forms and an engineering report. The engineering report submitted with the application must meet all requirements specified in Title 22, Division 4, Chapter 3, Article 5, Section 60314 of the California Code of Regulations and must be reviewed and approved by the district and DDW.

2. The district reserves the right to request additional information or require the submittal of an engineering report as needed on a case-by-case basis to ensure the safe use of recycled water.
- D. The user and the district will address any concerns that the DDW may have regarding the engineering report and revise the report accordingly.
 - E. The user must designate and maintain a user supervisor who must be trained and certified for the operation and maintenance of the on-site recycled water system.
 - F. The user will schedule a cross-connection test of the on-site recycled water system to ensure that cross-connections do not exist. The user shall notify the district, State DDW, and Regional Water Quality Control Board at least two (2) business days before the initial test date with the intent that the district, DDW, and Regional Water Quality Control Board will attend. For the initial cross-connection test, potable water supplied through an approved backflow device will be used for the irrigation piping system. The test shall be performed by a CA/NV AWWA certified Cross Connection Control Specialist hired by the user. A Cross-connection Shut-Down Test Form must be completed. This form can be found on the district's website. The user shall notify the district, Regional Water Quality Control Board, DDW, and the MCHD at least two (2) business days before the initial test date with the intent that both agencies and the district will attend as required per 22 CCR §60316(a). The user shall comply with all cross-connection procedures and requirements in the district's *Recycled Water User's Rules of Service*.
 - G. Once the district approves the on-site recycled water use permit application, the user will enter into an on-site recycled water use permit with the district and pay any remaining applicable fees.
 - H. Upon the successful completion of the test and payment of any remaining applicable outstanding fees, the district may authorize recycled water service to begin.

4.28.080 Responsibilities of users.

- A. Users are responsible for complying with all requirements, provisions, and conditions outlined in this chapter and as required by the Regional Water Quality Control Board, DDW, and district.
- B. Users shall comply with all applicable provisions contained in this chapter, the district's *Engineering Procedures, Guidelines, and Design Requirements*, the district's *Recycled Water User's Rules of Service*, and the user's recycled water use permit, and other laws, regulations, agreements, permits, orders, guidelines, and/or standards, any amending or superseding requirements thereof.
- C. The user shall bear all costs incurred to remedy the noncompliance with any such provisions and shall pay any monetary penalties or fees imposed for the violation of or noncompliance with such provisions. The omissions or acts by the district shall not relieve the user of responsibility to comply with the provisions of this section.

- D. In the event that any rule, provision, or criteria set forth in this section conflicts with or is inconsistent with any state regulation, the more stringent rule, provision, or criteria shall apply.

4.28.090 Operation and maintenance of facilities.

- A. On-site recycled water systems shall be regularly inspected to assure proper operation and compliance with rules. The users must provide all required reports to the district as set forth in the user's permit.
- B. The operation, surveillance, repair, and maintenance of all user-owned recycled water facilities are the responsibility of the owner, or a person designated by the owner to be the "on-site" recycled water user supervisor. The owner is responsible for maintaining all on-site facilities that are under the ownership of parties other than the district and shall be responsible for all operation and maintenance as defined in the district's *Recycled Water User's Rules of Service*.
- C. For all off-site recycled water facilities and systems owned and maintained by the district, only the district's personnel may operate or make changes to these facilities.

4.28.100 Monitoring and inspection by District.

- A. The district shall be allowed to monitor and inspect as needed all recycled water facilities including those owned by the district and those owned by the user to ensure that all requirements are being met for the use of recycled water.

Therefore, the district shall be granted rights to access the user's premises to monitor and inspect the on-site facilities at all times. For all recycled water facilities with restricted access via locks, combination pads, etc., the user shall provide the necessary copies of keys or access codes to allow the district access to these facilities.

4.28.110 Violations and enforcement.

- A. The recital of specified instances in this chapter wherein the district is authorized to discontinue service to the user is not to be construed as limiting the authority of the district to the instances specified.
- B. The district shall have the right to discontinue service to any user upon failure to comply with, or violation of the user's permit, this chapter, or any rule adopted by the General Manager in accordance with Section 4.28.120.
- C. A discontinued recycled water service shall not be allowed to connect to any existing potable water system. The connection of an on-site recycled water system to a potable water system poses an imminent health risk to the user, the public, and the district's water system and supplies. Such a connection also violates the Notice of Applicability, Enrollment in General Waste Discharge Requirement's Order No. WQ 2016-0068-DDW, Water Reclamation Requirements for Recycled Water Use and Transmittal of Monitoring and Reporting Program Order issued to the district by the Regional Water Quality Control Board and DDW. Any recycled water system found to be connected to a potable water system is a cross-connection, as defined in 17 CCR §7583(e). When the district determines that an unauthorized cross-connection has occurred, the district

may terminate the potable water service pursuant to District Code section 3.28.060

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

1. The district may immediately and summarily abate a public nuisance when the district determines that the violation could be an imminent health risk to the user, the public, or the district's water system or supply. If the district summarily abates the public nuisance, the user shall be liable to the district for the costs and obligations of abatement as set forth in D.2i, ii, iv, v, and vi and in D.4 below
2. The district's attorney may, upon order of the board of directors, bring a civil suit or other action to enjoin or abate the nuisance. In a civil proceeding brought to abate a nuisance or to obtain injunctive relief under this chapter, any user who causes, allows, or maintains a public nuisance in violation of this chapter shall be liable to the district for the costs and obligations of abatement, including but not limited to the costs and obligations set forth in D.4 and the following:
 - i. Cost of investigation;
 - ii. Cost 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;
 - iii. Court costs;
 - iv. Attorney's fees and costs, including the fees and costs of experts employed by the attorney; and
 - v. Costs of monitoring compliance.
 - vi. A civil penalty of fifty percent (50%) of those costs set forth in subsections D.2 and D.4, payable to the district.
3. If any user causes, allows, or maintains 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 user shall be liable to the district for the following:
 - i. The costs of abatement set forth above;
 - ii. Any other costs of enforcement imposed by the court; and
 - iii. A civil penalty of fifty percent (50%) of those costs (set forth in subsections D.2 and D.4), payable to the district.
4. In addition, the costs of abatement whether through summary action or civil proceeding shall also include, but not be limited to, injury and damages to others and the costs to remediate the district's water system or supply. The user shall indemnify, defend, and hold harmless the district from all injuries and damages to others in any way related to the violation of this chapter.
5. This Section 4.28.110 does not preclude the district from taking action against individuals for the unauthorized taking of water under Penal Code Section 498.

E. Penalties.

1. Each violation of this chapter shall be a misdemeanor pursuant to Water Code Section 31106 and Penal Code Section 19.
2. Any violation that occurs or continues from one calendar day to the next shall be

deemed a separate violation, for each calendar day during which such violation occurs or continues to occur.

- F. The district's rights and remedies under this chapter are cumulative and not exclusive of any rights or remedies at law or in equity.

4.28.120 Rules and regulations.

The General Manager may adopt rules, regulations, procedures, guidelines, design requirements, and specifications (collectively, "rules") as deemed appropriate by the General Manager to assist in implementing this title, but this title is self-executing and does not depend on the adoption of any such rules to be effective.

Section 7. Enforcement and Administration. The General Manager and all officers and employees of the District, including all ex-officio officers and employees, shall enforce all the provisions of this Ordinance. The General Manager shall implement and administer this Ordinance. The General Manager shall report to the Board all factors which affect the implementation of this Ordinance and shall maintain a separate file of violations of this Ordinance and a file of any requests for variances from this Ordinance.

Section 8. Repeal of Inconsistent and Prior Provisions. This Ordinance supersedes and repeals Marina Coast Water District's Ordinances No. 27 and the corresponding provisions of the Marina Coast Water District Code.

Section 9. Notice of Exemption Notice of Determination. 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.

Section 10. Existing Charges. Existing rates, fees, and charges in effect when this ordinance is adopted shall remain in effect unless specifically changed by this ordinance and, if specifically changed by this ordinance, then until the Effective Date of this ordinance. Further, any terms, conditions, and requirements set forth in those portions of the District Code specifically referenced herein which are not amended or modified by the Ordinance shall remain in full force and effect.

Section 11. 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 _____, seconded by Director _____; the foregoing Ordinance is enacted and shall take effect upon adoption by the following roll call of the Board:

Ayes: _____

Nays: _____

Absent: _____

Abstained: _____

By _____
Jan Shriner, President

ATTEST:

Remleh Scherzinger, Secretary

CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was adopted and approved by the Board of Directors at their regular meeting on June 20, 2022.

Remleh Scherzinger, Secretary