

ORDINANCE NO. 3886

AN ORDINANCE
OF THE MONTEREY COUNTY WATER RESOURCES AGENCY
AMENDING ORDINANCE NOS. 3744 AND 3751
REQUIRING THE FILING OF
URBAN WATER CONSERVATION PLANS

PASSED: SEPTEMBER 17, 1996

Monterey County
Water Resources Agency

Ordinance No. 03886

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County Counsel Summary

This ordinance requires that all cities and urban water purveyors within Zones 2, 2A, or 2B file plans with the Monterey County Water Resources Agency not later than February 15 of each year, showing the water conservation measures that the entities will implement during that calendar year and the water conservation measures implemented during the previous calendar year. The ordinance describes the required contents of the plans, and prescribes penalties for failure to file plans on time.

The Board of Supervisors of the Monterey County Water Resources Agency ordains as follows:

SECTION I. Monterey County Water Resources Agency Ordinance No. 3744, as amended by Ordinance No. 3751, is amended to read, in its entirety, as follows:

Section 1. Authority.

Under the Monterey County Water Resources Agency Act (Water Code Appendix, Chapter 52), the Agency has jurisdiction over matters pertaining to water within the entire area of the County of Monterey, including both incorporated and unincorporated areas. Under the Act, the Agency is authorized to conserve water in any manner, to prevent the waste or diminution of the water supply within the territory of the Agency, to conserve water for the present and future use within the territory of the Agency, and to prevent groundwater extractions which are determined to be harmful to the groundwater basin. The Agency may further adopt, by ordinance, reasonable procedures, rules, and regulations to implement the Act, and may specify in any ordinance that a violation of the ordinance is an infraction. The Board of Supervisors further has power to perform all other acts necessary or proper to accomplish the purposes of the Act.

Section 2. Findings.

A. Many groundwater areas of Monterey County are experiencing overdraft. This inability to maintain a constant water supply is based in part on demand for water resources which, for many years, has annually exceeded the natural and augmented recharge capabilities in Monterey County. Drought conditions significantly increase overdraft and exacerbate water quality impacts. However,

even without drought conditions, overdraft of the groundwater basin remains a constant problem. Overdrafting of the groundwater basin contributes to the serious problem of intrusion of seawater into the basin along the coast.

B. The conservation of water is an economically and environmentally feasible way to reduce water demand, to help prevent further overdraft, and to help curtail the presently existing threat of nitrate contamination to the groundwater basin.

C. Enactment of this ordinance is a matter of necessity in that the severity of groundwater overdraft, seawater intrusion, and nitrate contamination is an imminent threat to the municipal water supply for thousands of County residents and a multi-billion dollar agricultural business.

Section 3. Purpose and Intent.

A. The purpose of this ordinance is to require all cities and urban water purveyors within Zones 2, 2A, and 2B of the Salinas Valley to develop a water conservation plan for the upcoming year and to report the measures implemented in the previous year. The plan is to be filed with the Water Resources Agency.

B. The intent of this ordinance is to provide the separate jurisdictions within Zones 2, 2A and 2B of the Salinas Valley with the flexibility to establish a conservation goal for their jurisdiction and design their own water conservation program, while encouraging the use of Best Management Practices to their fullest reasonable extent.

Section 4. Definitions.

A. Agency.

“Agency” means the Monterey County Water Resources Agency.

B. Conservation.

“Conservation” means reduction in applied water due to more efficient water use such as through implementation of Best Management Practices.

C. Ground Water Extraction Facility.

“Ground water extraction facility” or “facility” means a well or facility for the extraction of ground water which employs a motor-driven pump for the extraction of ground water.

D. Service Connection.

“Service connection” means a connection between a water distribution system or ground water extraction facility and a water user’s pipes or facilities.

E. Small Water System.

“Small Water System” means a water system which serves 15 to 200 service connections.

F. Urban Water Purveyor.

“Urban Water Purveyor” means the operator of a water system which serves 15 or more service connections providing water to residential, industrial, commercial, municipal, institutional, governmental or other urban uses, and shall also mean the operator of a ground water extraction facility which has a discharge pipe with an inside diameter equal to or greater than 3 inches, or system supplied by such extraction facility, that provides water to one or more industrial, commercial, or institutional water users. Without limitation, this term applies to all cities, water districts, county service areas, and private and public water systems which meet the above criteria.

G. Zones 2, 2A, and 2B.

“Zones 2, 2A, and 2B” mean the zones established by the Agency in connection with the construction of the San Antonio and Nacimientos Dams and Reservoirs and the Castroville Irrigation and Wastewater Reclamation Projects, including any subsequent annexations thereto.

Section 5. Urban Water Conservation Plan Required.

A. Each urban water purveyor providing water to service connections located in Zones 2, 2A, or 2B, shall prepare a Water Conservation Plan, and shall submit the plan, in writing, to the Agency, and also to the city having land use planning authority over the territory served by the purveyor, not later than February 15 of each year. Urban water purveyors shall prepare separate plans for each stand-alone system. The plan shall describe how urban water purveyors will maximize their share of the overall responsibility for reducing water use, and to this end, shall include the following information:

- I. The number of service connections served by the purveyor;
- ii. The total quantity of water produced by the purveyor;
- iii. The quantity of water produced by the purveyor as an average per service category per service connection; and
- iv. The number of acres of land currently within the purveyor’s service area.

B. Each incorporated city within Zones 2, 2A, or 2B shall submit a Water Conservation Plan, by April 15 of each year, whether they are an urban water purveyor or not, which includes the water conservation goals of the jurisdiction, and a description of the policies adopted to support those goals. Cities can refer to and incorporate Water Conservation Plans submitted by other urban water purveyors whose service area is within their incorporated boundaries.

C. The Agency will provide guidelines and forms for reporting this information.

D. The Agency, after reviewing the water conservation plans, may make recommendations for further water conservation measures.

Section 6. Variances.

A. **Application for Variance.** Any jurisdiction or urban water purveyor may, at any time, apply in writing for a variance from the requirement to comply with the provisions established pursuant to this ordinance. The jurisdiction may apply for the variance before the event occurs for which the variance is requested, during such event, or afterwards, or at the time of filing the reports required by Ordinance No. 3717 or any successor ordinance, after the end of the water reporting year. The application for the variance shall be filed with the Agency. The General Manager may dispense with the requirement of a written application upon finding that an emergency condition requires immediate action on the variance request.

B. **Plan for Compliance.** The applicant shall submit a plan at the time the variance request is filed, describing how and when the applicant will comply with this ordinance without the need for a variance. Compliance with this plan, as presented by the applicant or as modified by the General Manager, shall be a condition of granting the variance.

C. **Action on Variance Application.** The General Manager shall act on the variance request by either granting or denying the request within 10 working days after the request is filed; if the variance request is filed after the end of the water reporting year for which the variance is sought, action shall be taken within 60 days after the request is filed. The General Manager may grant a variance to the terms of this ordinance upon making both of the following findings:

1. The strict application of the ordinance would create an undue hardship, or an emergency condition requires that the variance be granted; and
2. Granting the variance will not cause a significant adverse effect on the water supply or on service to other water consumers and will not cause a significant loss in the accuracy or completeness of water use data provided to the Agency.

D. **Grant of Variance Subject to Conditions.** In granting a variance, the General Manager may impose any conditions in order to ensure that the variance is consistent with the overall goals of this ordinance. Variances may be granted for a limited period of time. The variance and all time limits and other conditions attached to the variance shall be set forth in writing, and a copy of the written variance shall be provided to the applicant.

E. **Compliance with Terms of Variance.** No person shall operate or maintain a groundwater extraction facility, water distribution system or service connection for which a variance has been granted hereunder, or use water therefrom, in violation of any of the terms or conditions of the variance.

F. **Appeal of Decision on Variance.** Any interested person may appeal any decision by the Agency General Manager to approve or deny a variance in the manner provided in this ordinance. Any person who is aggrieved by an appealable action or decision may initiate the appeal by filing a written appeal with the Agency within ten days after the date of the action or decision.

G. **Hearing and Decision by Directors.** The appeal shall be heard by the Board of Directors at a duly noticed public hearing not later than 30 days after the date the appeal is filed with the Agency. Decisions by the Board of Directors shall be final and shall not be subject to further administrative appeals.

Section 7. Enforcement and Penalties.

A. The General Manager and all officers and employees of the Agency, including all ex officio officers and employees, shall have authority to enforce all the provisions of this ordinance.

B. Any failure to file a water conservation plan with contents that substantially comply with the requirements set forth herein, within the time limits set by this ordinance, is a violation of the ordinance; each such violation shall be an infraction.

C. Any violation that occurs or continues from one day to the next shall be deemed a separate violation, for each day during which such violation occurs or continues to occur.

D. The fine for a violation of this ordinance shall be \$50.00 for each day during which the violation occurs or continues to occur. The proceeds from all fines shall go toward the Agency water conservation data collection efforts (Fund 206, Program 9458).

Section 8. Severability.

If any portion of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, or phrase thereof irrespective of the fact that any other part thereof be unconstitutional or invalid.

Section 9. Amendment of Ordinance Nos. 3744 and 3751.

This ordinance amends Monterey County Water Resources Agency Ordinance No. 3744, prescribing requirements for urban water conservation and allocation plans, and Monterey County Water Resources Agency Ordinance No. 3751, amending Ordinance No. 3744, in their entirety.

SECTION II. Effective Date.

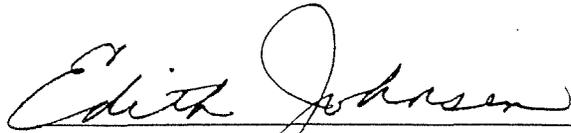
This ordinance shall take effect on the thirty-first day after its adoption.

PASSED AND ADOPTED this 9/17/96, by the following vote:

AYES: Supervisors Salinas, Pennycook, Perkins, Johnsen, Karas

NOES: None

ABSENT: None



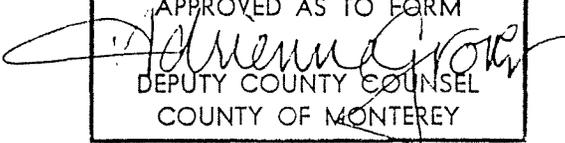
Edith Johnsen, Chair
Board of Supervisors of the Monterey County Water
Resources Agency

ATTEST:

ERNEST K. MORISHITA

Clerk of the Board

By Camela Olivas

APPROVED AS TO FORM

DEPUTY COUNTY COUNSEL
COUNTY OF MONTEREY