

Monterey County
Water Resources Agency

Ordinance No. 3932

AN ORDINANCE OF
THE MONTEREY COUNTY WATER RESOURCES AGENCY
AMENDING ORDINANCE NOS. 3539 AND 3596 AND
ENACTING MANDATORY WATER CONSERVATION REGULATIONS

County Counsel Summary

This ordinance amends certain water conservation requirements and water waste restrictions currently in effect throughout Monterey County. The ordinance adds to and amends existing definitions and amends existing requirements for water-efficient plumbing retrofit of visitor-serving facilities and residential structures. Provisions governing appeals are deleted, as they have been superseded by the Agency's recently enacted Appeals Ordinance. Also deleted are references to ongoing drought conditions, as they are not presently applicable.

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

SECTION I. Monterey County Water Resources Agency Ordinance No. 3539, as amended by Ordinance No. 3596, is amended to read, in its entirety, as follows:

Section 1. Authority.

Under the Monterey County Water Resources Agency Act (Calif. Water Code Appx., Ch. 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 present and future use within the territory of the Agency, and to prevent ground water extractions which are determined to be harmful to the ground water basin. The Agency may further adopt, any 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 of the Agency further has power to perform all other acts necessary or proper to accomplish the purposes of the Act.

Section 2. Findings.

A. Many ground water areas of Monterey County are experiencing overdraft. This

inability to maintain a constant water supply is based on demand for water resources which, for many years, has annually exceeded the natural and augmented recharge capabilities in Monterey County. The failure on the part of many to employ sufficient water conservation practices in their use of water, and the actual waste of water on the part of others, contribute to the overdraft. Overdrafting of the ground water basin contributes to the intrusion of seawater into the basin along the coast, aggravates the nitrate pollution problem in many areas of the county, and may ultimately lead to soil subsidence, which could damage surface structures and permanently reduce the capacity of the ground water basin.

B. As a result of the ongoing overdraft conditions, water waste in residential, commercial, industrial, and agricultural uses cannot continue. The continuation of wasteful water use practices in Monterey County constitutes a threat to the public health, safety and welfare due to a dwindling water supply of sufficient quantity and quality to meet current and future demand. In order to prolong the availability of water for all present and future uses in Monterey County, it is necessary that uniform regulations, applicable throughout the entire county, be adopted to control water waste.

C. Even though at times water may seem to be abundant, water that is usable to satisfy human needs or residential, agricultural, commercial, industrial, and other purposes is, in the long term, a scarce resource. The natural replenishment and the artificial recharge taking place in Monterey County ground water basins do not adequately restore this ground water supply. The prevention of water waste is an economically feasible and environmentally responsible way to reduce water demand, to help prevent further overdraft, and to help curtail the threat to the public health, safety, and welfare.

Section 3. Purpose.

The purpose of this ordinance is to bring about public awareness of the need for water conservation, to provide for water conservation regulations that will permanently reduce or eliminate waste of water in all areas of Monterey County, and to require the adoption of substantially similar or more restrictive regulations in all jurisdictions of the county which may properly adopt such regulations.

Section 4. Definitions.

A. Agency.

"Agency" means the Monterey County Water Resources Agency.

B. Automatic shutoff nozzle.

An "automatic shutoff nozzle" is a water release mechanism securely affixed to the end of a water hose, that requires the person using the hose to apply and maintain pressure at the-outlet end

of the hose to activate and maintain the flow of water, and that shuts off immediately when such pressure is released.

C. Best management practices.

"Best management practices" means those water use practices formally recognized by the Agency and other public agencies such as the California Department of Water Resources, the University of California, and the U.S. Department of Agriculture Soil Conservation Service, as the most effective and efficient means of water use by the agricultural, municipal, industrial, and residential sectors in Monterey County. The actual practices which may be categorized as "best management practices" result in high water use efficiencies. Water use efficiency is defined as the ratio of water beneficially used to the total water used. *Best Management Practices for Urban Water Conservation in the Salinas Valley* and *Best Management Practices for Nitrogen Fertilizer and Water Use in Irrigated Agriculture* have been developed by the Agency and are available upon request.

D. Change of ownership.

"Change of ownership" means a transfer of a present interest in property through a contract of sale.

E. Change of use.

"Change of use" means a change from one use of a structure or land to another use that is identified as a different use under the zoning ordinance of the local government entity having land use regulatory authority over the property in question.

F. General Manager.

"General Manager" means the General Manager of the Monterey County Water Resources Agency.

G. Hot water recirculating system.

"Hot water recirculating system" means a system of pipes with a device that recirculates water between the hot water heater and hot water faucets, so that substantially all the cold water standing in the pipes will be returned to the water heater and reheated before the faucet is turned on. The pump may be turned on and off by a manually operated switch, by a timer-operated switch, or otherwise, or may be left permanently on.

H. Low volume/high pressure system.

"Low volume/high pressure system" means a cleaning device which uses a low volume of

water ejected at a high pressure to effect efficient cleaning.

I. New construction.

"New construction" means a completely new structure, a new bathroom of any size, or an addition to a previously existing structure which adds 25% or more to the existing square footage.

J. Overdraft.

"Overdraft" means the condition of a ground water basin where the amount of water withdrawn by pumping exceeds the amount of water replenishing the basin over an extended period of time, or where the amount of water withdrawn by pumping results in an unacceptable degradation of ground water quality within the basin.

K. Person.

"Person" means any individual person and any firm, partnership, corporation, business entity, district, agency, city, county, and any other entity or organization.

L. Public and quasi-public facilities.

"Public and quasi-public facilities" includes educational institutions, libraries, churches, museums, community centers, convention centers or meeting facilities, parks, picnic grounds, recreation centers, public swimming pools and tennis courts, and other such facilities designated by the General Manager.

M. Shutoff nozzle.

A "shutoff nozzle" is a water release mechanism ("nozzle") securely affixed to the end of a water hose which enables the user of the hose to control the flow of water in the hose, including stopping the flow of water completely and securely, by a lever or mechanical device in the nozzle.

N. Visitor-serving facility.

"Visitor-serving facility" includes all hotels, motels, restaurants, service stations, and other facilities which exist primarily for the use of tourists and the traveling public, as designated by the General Manager.

O. Water district.

"Water district" includes the Monterey Peninsula Water Management District, the Pajaro Valley Water Management Agency, all County Water Districts within the county, all California Water Districts within the county, all Community Service Districts within the county, all County

Service Areas within the county, and any similar district duly established in Monterey County.

P. Xeriscape principles.

"Xeriscape principles" means a combination of landscape features, materials, and techniques that, in the aggregate, reduce the demand for and consumption of water, including appropriate native or low water use/drought-tolerant plants used together with low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices, non-living ground cover, a low percentage of turf coverage, and permeable paving.

Section 5. Territorial application: ordinances adopted by other public entities.

A. This ordinance shall apply throughout all areas of the County of Monterey that are subject to the Agency's regulatory jurisdiction, including all incorporated and unincorporated areas and including all water districts within the county, except that this ordinance will not be implemented in any city or water district that adopts and regularly enforces a water conservation ordinance or water rationing ordinance with regulations that are at least as restrictive as the regulations contained in this ordinance.

B. The Agency shall work cooperatively with cities and water districts within the County of Monterey to facilitate the enactment of similar water conservation ordinances throughout all jurisdictions in the County of Monterey.

C. If any city or water district adopts a water conservation ordinance, the General Manager shall determine whether such ordinance is consistent with the intent of this ordinance. If the General Manager determines that the city or water district ordinance is not consistent with the intent of this ordinance, the General Manager shall notify the city or water district that the Agency will enforce this ordinance within the territory of that city or water district until such time as the city or water district brings its ordinance into conformity with this ordinance.

Section 6. Mandatory water conservation regulations.

A. Repair of plumbing, sprinkler and irrigation systems.

Any person who is the owner, manager, or person responsible for the day-to-day operation of any premises shall take action to 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 within a reasonable time after such person first learns of such leaks, breaks, or defects, and shall thereafter diligently and promptly pursue such repair work to completion. In any event, such action initiating steps for repair shall take place within 72 hours after first learning of the problem, unless a variance is obtained from the Agency.

B. Washing of personal 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 or low volume/high pressure system.

C. Washing of commercial/institutional vehicles.

No person or commercial/institutional entity shall use a water hose to wash any car, truck, boat, trailer, bus, recreational vehicle, aircraft, tractor, or any other vehicle, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle or low volume/high pressure system.

D. Car washes.

No person or entity shall suffer or permit the washing of any vehicle on its premises, other than by the following methods:

- i. Use of mechanical automatic car wash facilities utilizing water recycling equipment;
- ii. Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;
- iii. Use of a hose equipped with an automatic shutoff nozzle or a low volume/high pressure system;
- iv. Use of a bucket and hand-washing.

E. Cleaning of structures.

No person shall use potable water through a hose to clean the exterior of any building or structure unless such hose is equipped with a shutoff nozzle or low volume/high pressure system.

F. Cleaning of surfaces.

No person shall use potable 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 a bucket or low volume/high pressure system is not prohibited at any time for cleaning food, grease, oil, or other stains or spillage from surfaces.

G. Water spillage.

No person shall cause, suffer, or permit water to spill into streets, curbs, or gutters, which exceeds reasonable beneficial use.

H. 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.

I. Fountains.

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

J. Display of water conservation placards or decals.

All visitor-serving and public and quasi-public facilities shall display, in visible locations in all restrooms, kitchens, and dining areas, placards or decals approved by the Agency, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

K. Rental properties.

The owner and/or manager of each rental property shall provide a pamphlet, brochure, or other literature to current and future tenants that describes the water conservation requirements of this ordinance, as may be amended from time to time.

L. Construction.

i. No potable water may be used for compaction or dust control purposes in construction activities where there is a reasonably available source of reclaimed or County-approved subpotable water appropriate for such use.

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

M. 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 water purveyor supplying water to the hydrant and from any other affected entity.

N. Unauthorized taps in water systems.

No person may tap into any water system, without first obtaining approval from the Monterey County Health Department and any other affected entity.

O. Utilities and water distribution systems.

Water supply and distribution companies with 15 or more service connections shall maintain a distribution system leakage detection and repair program.

P. Irrigation.

No person shall use, suffer, or permit the use of water for 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.

Q. Dust control.

No potable water may be used for dust control purposes where there is a reasonably available source of reclaimed or other subpotable water approved by the Monterey County Health Department and appropriate for such use.

R. Commercial/industrial water use.

No person shall use, suffer or permit the use of water for commercial or industrial purposes 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.

S. New construction.

i. As required in the Uniform Building Code, in all new construction, all toilets shall be ultra low-flow toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system. When existing structures are remodeled to add one or more bathrooms of any size, or an addition which increases the existing square footage by 25% or more, all existing plumbing fixtures in the structure shall be retrofitted to conform to the standards above.

ii. All new construction requiring a discretionary permit from the body having land use regulatory authority over such new construction shall apply xeriscape principles throughout the exterior landscape development associated with such new construction.

iii. Use of nonpotable water for landscape irrigation shall be encouraged wherever there is a reasonably available source of nonpotable water approved by the Monterey County Health Department and appropriate for such use.

iv. The front yards of all homes shall be landscaped prior to occupancy.

v. Turf grass shall be limited to 20% of the planted area or up to 1,500 square feet (whichever is lower); drought tolerant grass species shall be utilized.

T. Retrofitting of existing visitor-serving facilities.

All existing visitor-serving facilities shall, before December 31, 2000, be retrofitted with ultra low-flow toilets with a maximum tank size or flush capacity of 1.6 gallons and ultra low-flow shower heads with a maximum flow capacity of 2.5 gallons per minute.

U. Retrofitting upon change of ownership or use.

i. All existing residential structures shall, at the time of change of ownership, be retrofitted, if not already so, as follows:

a. All shower heads shall have a maximum flow capacity of 2.5 gallons per minute;

b. Each toilet shall be replaced with an ultra-low flow toilet with a maximum tank size or flush capacity of 1.6 gallons.

ii. All existing commercial and industrial structures shall, at the time of change of ownership or change of use, be retrofitted, if not already so, as follows:

a. All shower heads shall have a maximum flow capacity of 2.5 gallons per minute.

b. Each toilet shall be replaced with an ultra-low flow toilet with a maximum tank size or flush capacity of 1.6 gallons.

iii. Before the close of escrow for any change of ownership, defined by this ordinance, of real property within the regulatory jurisdiction of the Agency, compliance with the above requirements shall be verified by submittal of a completed certification form prescribed by the Agency, signed by the selling owner(s) or authorized agent(s), and accompanied by one of the following: (1) a signed building inspection report, (2) a signed purveyor inspection report, (3) a plumber or contractor's completed work order, or (4) an original purchase receipt to the Agency or to such other city or county official as the General Manager may designate.

iv. This sub-section U applies to all properties that enter escrow on or after the effective date of this ordinance.

v. This ordinance does not impose upon the real estate or escrow agent any liability in connection with a violation of this sub-section U.

vi. The General Manager may waive the proof of retrofit before close of escrow requirement of sub-section U.iii where the seller and buyer certify that the structure will begin to be remodeled or modified within one hundred and twenty (120) days of the close of escrow, and that the structure will be exclusively retrofitted with low water-use fixtures upon completion of construction.

V. 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.

Section 7. Warnings.

In order to encourage cooperative efforts to achieve water conservation, it shall be the policy of the Agency to issue a written warning citation, when an alleged problem is first noted. Such warning shall include an explanation of the problem. The individual or entity will then be given a specified time in which to correct the problem. At the end of the specified time, if no correction has been initiated, an infraction citation will be issued. If an alleged problem involves an immediate risk to public health and safety, the Agency may issue a verbal warning citation and/or immediately commence prosecution to obtain injunctive relief.

Section 8. Penalties.

A. Each violation of this ordinance is an infraction.

B. Any violation that occurs or continues from one twenty four-hour period to the next shall be deemed a separate violation, for each twenty four-hour period during which such violation occurs or continues to occur.

C. The fine for a first violation of this ordinance shall be \$50.00. When a person commits two or more violations of this ordinance within a period of 12 months, regardless of the specific section or sub-section violated, the fine for each subsequent violation shall be \$100.00.

Section 9. Nuisances; Abatement; Injunctive Relief.

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

B. The Agency may summarily abate the public nuisance and the County Counsel or the District Attorney may, upon order of the Board of Supervisors, bring civil suit or other action to enjoin or abate the nuisance.

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

- i. Costs of investigation;
- ii. Costs of labor and parts to repair any affected water system or premises, to bring such water system or premises into compliance with this ordinance, or to install facilities necessary to assure compliance with this ordinance;
- iii. Court costs;
- iv. Attorneys fees;
- v. 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 Agency, 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 Agency for the following:

- i. The costs of abatement set forth above;
- ii. Any other costs of enforcement imposed by the Court;
- iii. A civil penalty, payable to the Agency, in the amount of fifty percent (50%) of the costs of abatement and enforcement described herein.

E. If an infraction citation is issued and a prosecution commenced for any alleged violation, in no case shall proof of a violation depend upon the showing that a warning was previously given, nor shall failure to give a warning be a defense.

Section 10. Variances.

A. Any person affected by the restrictions of this ordinance may, at any time, apply in writing for a variance from the strict application of this ordinance. The application for the variance shall be filed with the Agency. The General Manager may dispense with the requirement of a written application if he or she finds that an emergency condition requiring immediate action on the variance request exists.

B. The General Manager may grant a variance to the terms of this ordinance if he or she makes both of the following findings:

- i. The strict application of the ordinance would create an undue hardship, or an emergency condition exists which requires that the variance be granted; and
- ii. Granting the variance will not cause a significant adverse effect on the water supply or on service to other water consumers.

C. In granting a variance, the General Manager may impose any conditions in order to ensure that the variance is consistent with the overall goal of water conservation. Variances may be granted for a period of up to 60 days. During this time, the applicant must file an action plan describing how compliance with the ordinance will be accomplished. The granting of a variance and any conditions imposed upon such variance shall be set forth in writing.

D. The decision of the General Manager on an application for a variance may be appealed as provided in the Agency's Appeals Ordinance.

Section 11. Enforcement.

The General Manager and all officers and employees of the Agency, including all ex officio officers and designees from Monterey County departments, are authorized to enforce all the provisions of this ordinance.

Section 12. Revenues Received from Enforcement.

All revenues generated from enforcement of this ordinance shall be used exclusively for Agency purposes, including but not limited to administrative, monitoring, appeals, and enforcement costs.

Section 13. Severability.

If any section, subsection, sentence, clause, or phrase 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, sentence, clause, and phrase hereof irrespective of the fact that any other part be unconstitutional or invalid.

Section 14. Review by Board of Directors.

Not later than three years from the effective date of this ordinance, Agency staff shall review this ordinance and make recommendations to the Board of Directors regarding whether the ordinance should remain in effect without change, be amended, or be repealed.

SECTION II. Effective date.

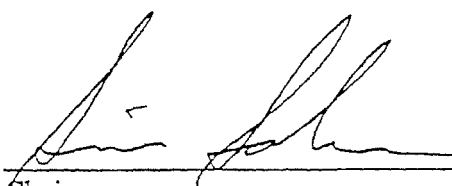
This ordinance shall take effect on the thirty-first day after its adoption.

PASSED AND ADOPTED this 22nd day of July 1997, by the following vote:

AYES: Supervisors Salinas, Pennycook, Perkins, Johnsen & Potter.

NOES: None


ABSENT: None

 /s/ Simon Salinas

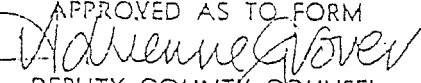
Chair
Board of Supervisors

ATTEST:

ERNEST K. MORISHITA
Clerk of the Board

By  /s/ Carrie Wilkinson

Deputy

APPROVED AS TO FORM

DEPUTY COUNTY COUNSEL
COUNTY OF MONTEREY