

ORDINANCE NO. 97

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT PROVIDING FOR MODIFICATIONS TO RESTRICTIONS ON THE USE OF WATER AND SUPPORTING A DECLARED STAGE 2 WATER SHORTAGE EMERGENCY IN ACCORDANCE WITH STATE WATER RESOURCES CONTROL BOARD RESOLUTION 2022-0018, AN EMERGENCY REGULATION MANDATING ACTIONS BY URBAN WATER SUPPLIERS TO REDUCE WATER DEMAND AND IMPROVE WATER CONSERVATION

WHEREAS, the Montecito Water District (“District”) is a County Water District formed under and pursuant to Section 30000, et seq. of the California Water Code, located in and serving the unincorporated areas of Montecito and Summerland within the County of Santa Barbara; and

WHEREAS, for about the past decade, portions of the State of California, including Santa Barbara County, have experienced ongoing drought conditions with little reprieve, resulting in depleted surface water and groundwater supplies; and

WHEREAS, the District’s historical dependence on state, regional and local surface water supplies and the adverse effects of unpredictable and unreliable rainfall have been the primary reasons for its historical water shortages; and

WHEREAS, this reliance on surface water suppliers resulted in a water shortage condition beginning in 2014, resulting in the adoption of Ordinance 92 and subsequently Ordinance 94 declaring a Stage 4 water shortage condition in accordance with the District’s Water Shortage Contingency Plan included in its Urban Water Management Plan (“UWMP”) requiring the implementation of various water use reduction measures including mandatory water use allocations and associated penalties for exceedance, and a water shortage emergency surcharge, which together were successful in reducing water use by over 50%; and

WHEREAS, in early 2017 the District adopted its 2015 UWMP update, pursuant to California Water Code §§10610-10657, which established a plan to become less reliant on rainfall dependent water sources to ensure long term water security for the community. An update of this plan, the 2020 UWMP update, was adopted in mid-2021, and demonstrated full compliance with Senate Bill X7-7 which required a 20% reduction in water use. The reduction in water use required by Senate Bill X7-7 continues and the 12-month rolling average water conservation for the District has exceeded 30% nearly continuously since early 2014; and

WHEREAS, following adoption of the 2015 UWMP, the District began taking significant actions to improve water supply reliability and those efforts are ongoing. These actions include securing a right to store surplus State Water Project supplies in the Semitropic Groundwater Banking and Exchange Program; participation in a 50-year water supply agreement with the City of Santa Barbara backed by the City’s desalination facility; initiation of the management of groundwater supplies in the Montecito Groundwater Basin; continued evaluation of recycled water opportunities; and increased emphasis on voluntary conservation; and

WHEREAS, in 2017, following the first winter with average rainfall since 2011, which resulted in a modest improvement in State and local water supply conditions, the District repealed its

prior drought ordinances, Ordinance 92 and 94, including the monthly customer water use allocations and penalties set forth therein. At that time, the District adopted Ordinance 95, thereby transitioning from a mandatory to a voluntary-based water conservation model, establishing updated water use restrictions and declaring a Stage 2 water shortage emergency; and

WHEREAS, despite 2019 being the second winter with average rainfall since 2011 resulting in additional improvement in water supply conditions, the District remained in a water shortage condition. In response to those conditions, the District adopted an updated drought ordinance in May 2019, Ordinance 96, providing for further modifications to restrictions on the use of water and supporting an ongoing declared Stage 1 water shortage emergency in accordance with the District's Water Shortage Contingency Plan, which has remained in place since that time; and

WHEREAS, in 2020, extreme drought conditions returned statewide, with the majority of the State, including Santa Barbara County, returning to extreme, or worse, drought conditions as designated by the US Drought Monitor; and

WHEREAS, on April 21, May 10, July 8, and October 19, 2021, Governor Newsom issued proclamations that a state of emergency exists statewide due to severe drought conditions and directed state agencies to take immediate action to preserve critical water supplies and mitigate the effects of drought and ensure the protection of health, safety, and the environment; and

WHEREAS, in July 2021, amidst a second consecutive dry year and potentially a decade long drought in California, and an extended period of elevated water demands, the District adopted a water use reduction target of 20% to realign water use with its planned water budget, and to ensure water supply availability over a 3-year planning horizon; and

WHEREAS, due to the lack of progress statewide achieving the State's July 8, 2021 request for 15% voluntary reduction in urban water use, on March 28, 2022 Governor Newsom signed Executive Order N-7-22 directing the State Water Resources Control Board (SWRCB) to consider adopting an emergency regulation aimed at reducing water demand and increasing water conservation through mandated actions, regardless of local water supply conditions. Among other provisions, the Executive Order requested the SWRCB require that urban water suppliers implement those water use reduction measures included under a Level 2 water shortage condition as provided in urban water suppliers' Water Shortage Contingency Plans and to establish a ban on the irrigation of non-functional turf in the commercial, industrial, and institutional sectors; and

WHEREAS, Water Code §1058.5 grants the SWRCB the authority to adopt emergency regulations in certain drought years in order to (1) prevent waste, unreasonable use, and unreasonable methods of use of water and (2) promote water recycling or water conservation; and

WHEREAS, on May 24, 2022, the SWRCB considered and adopted Resolution 2022-0018, an emergency regulation to reduce water demand and improve water conservation among urban water suppliers as defined by Water Code §10617. The Resolution adopted California Code of Regulations, Title 23, §996, which remains in effect for one year unless the SWRCB determines

that it is no longer necessary due to changed conditions, or unless the SWRCB renews the regulation due to continued drought conditions, as described in Water Code §1058.5; and

WHEREAS, it is because of the extraordinary actions taken by the District since 2017 in support of improved long term water supply reliability and security that the District remains well positioned to respond to the ongoing extreme drought conditions, and as of May 2022 is not projecting the need for a heightened water shortage condition. The District’s April 2022 Quarterly Drought and Water Supply Update indicates sufficient water available to meet reduced customer demands through 2024 under assumed ongoing drought conditions; and

WHEREAS, while not currently locally necessary based on the District’s 3-year water supply outlook, it is the District’s desire to fully comply with the SWRCB’s May 24, 2022 Emergency Regulation mandating additional actions to reduce water demands and increase water conservation on a State-wide basis;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT AS FOLLOWS:

On the basis of the historic drought that has affected the entire State of California since 2011, the increasing severity of that drought since 2020, and State Water Resources Control Board Resolution No. 2022-0018 adopting an Emergency Regulation mandating actions by urban water suppliers to reduce water demand and improve water conservation, the Board hereby declares a Stage 2 Water Shortage Emergency condition pursuant to Water Code §350, Water Code §31026, and the District’s Urban Water Management Plan. Under this heightened water shortage emergency condition mandated by the SWRCB, restrictions on water use for all District customers are hereby modified as follows:

1. Repeal of Ordinance 96. Ordinance 96 is hereby repealed in its entirety.
2. New Water Meters Service/Modification of Existing Water Meter Service. New water meters may be issued subject to compliance with all pertinent District ordinances and regulations.
3. Prohibition Against Waste of Water. It shall be unlawful for any District customer obtaining any water from and through the distribution facilities of the District to waste any of that water.
4. Customer Water Use Limitation. Water use within the District’s service area continues to be limited to that allowed under Ordinance 89, or any future amendments, modifications and/or revisions of Ordinance 89.
5. Mandated Water Use Restrictions. The following restrictions are incorporated into this Ordinance:
 - a. The washing of hard surfaces such as driveways, sidewalks, patios and parking lots is prohibited except where necessary to protect health and safety. Pressure washing for maintenance or repair is permitted.

- b. Applying water to landscaping during and within 48 hours after measurable rainfall of at least one-quarter of one inch of rain is prohibited.
- c. Applying water to outdoor landscaping in a manner that causes runoff such that water flows onto an adjacent property, non-irrigated areas, private and public walkway, parking lot or structure is prohibited.
- d. Vehicles shall be washed only at commercial car washing facilities or by the use of a bucket or hose equipped with a hand-operated shut off nozzle.
- e. Using potable water in an ornamental fountain or other decorative water feature is prohibited except where part of a recirculating system.
- f. Hotels, Motels, etc. shall offer an option of not laundering towels and linens daily and shall display notice of this option.
- g. All restaurants and other eating establishments that provide table service shall refrain from serving water except upon specific request by a customer.
- h. Irrigating turf on public street medians or publicly owned or maintained landscaped areas between the street and sidewalk, except where the turf serves a community or neighborhood function or is watered incidentally w/ trees or is irrigated w/ recycled water is prohibited.
- i. The use of potable water for irrigation of non-functional turf at commercial, industrial, and institutional sites is prohibited per SWRCB Emergency Regulation §996(e). Non-functional turf is defined in Emergency Regulation §996(a)(5) as turf that is solely ornamental and not regularly used for human recreational purposes or for civil or community events. The prohibition regarding non-functional turf does not apply to the extent such irrigation is necessary to ensure the health of trees and other perennial non-turf plantings or to the extent necessary to address an immediate health and safety need. On written application to the District, a property owner may request relief from the non-functional turf restriction, subject to any exemptions contained in Emergency Regulation §996, at the discretion of the General Manager.
- j. Exterior irrigation, including but not limited to irrigation of turf, plants, lawns, shrubbery and ground cover, shall be permitted if irrigated no more often than every other day and between the hours of 6 p.m. and 10 a.m. On written application to the District, a property owner may request relief from these irrigation restrictions, at the discretion of the General Manager. This provision is applicable to all customer classifications excluding agriculture.
- k. Temporary construction meters may be issued for work being performed within the District's service boundary only.
- l. Water for private swimming pools, spas, and hot tubs is considered a non-essential use. Property owners with private swimming pools, spas and hot tubs are permitted to maintain water levels. The initial filling of new swimming pools,

spas and hot tubs is prohibited. The complete draining and refilling of existing private swimming pools, spas, and hot tubs is prohibited. On written application to the District, property owner may be authorized to fill, and/or refill a swimming pool, spa and/or hot tub at the discretion of the General Manager.

- m. Covers for private swimming pools, spas, and hot tubs are required to reduce water loss due to evaporation.
- n. Water for ponds is considered a non-essential use. Property owners are permitted to maintain water levels for currently existing lined ponds only. Water for new ponds, or for maintaining water levels on unlined ponds, must be supplied by an alternative water source. On written application to the District a property owner may be authorized to drain and refill a pond for repair, at the discretion of the General Manager.
- o. Breaks or leaks in any customer's plumbing must be immediately repaired upon discovery. If repairs cannot be immediately completed, water service to the property shall be temporarily turned off by the customer or customer's agent at the customer's shutoff valve, or by the District at the customer's water meter serving the property, to prevent water loss until such time as the repair has been completed.

6. Fines for Violating Mandated Water Use Restriction

- a. Fines for violation of mandated water use restrictions will fund general and targeted conservation outreach toward those who fail to avoid wasteful water use practices or conserve water; increased costs required to implement the mandated water use restrictions; and the purchase, if necessary, of additional water supplies to offset wasteful consumption and protect the health and safety of all customers. Because these costs are necessary to perform outreach and provide water service under continued drought conditions, the Board finds that the rates for water service, including fines established under this section:
 - i. Are not expected to exceed the funds required to provide water service.
 - ii. Will not be used for any purpose other than to provide water service.
 - iii. Will not exceed the proportional cost of water service attributable to any parcel.
 - iv. Are imposed only where water service is actually used by, or immediately available to, a parcel.
- b. A written warning will be issued for a first violation of a mandated water use restriction. The District will impose a fine in the amount of \$250 for the second violation, and doubling with each subsequent violation, up to a maximum of \$1,000 for any single violation. Upon a fourth violation, or upon an earlier violation, if the General Manager determines these violations are creating a significant threat to the goals of this Ordinance, the General Manager may issue a

written order for the installation of a flow restrictor on the service line or lines in question. Orders shall be provided to the Board when issued and any appeal shall be heard as quickly as possible to allow a flow restrictor to be removed promptly should the Board grant the appeal.

7. Water Use Efficiencies and Best Practices The following water use conservation measures are recommended to further reduce wasteful water use and conserve this essential and limited resource:
- a. Redesign landscape to replace some or all vegetation with drought-tolerant or native plants.
 - b. Water lawns and outdoor areas only when needed. Most plants do not need to be watered every day and excess watering not only wastes water, but can also harm plants. Improve irrigation management with the installation of a soil moisture sensor for measuring soil moisture and determining when irrigation is needed.
 - c. Replace or upgrade old irrigation systems with state-of-the-art efficient drip or spray systems.
 - d. Use mulch around trees and plants to keep moisture in the soil.
 - e. Set lawn mower blades at 3" to 4" to keep lawn longer and retain moisture in the soil.
 - f. Install water harvesting and diversion features, such as rain gutters, rain barrels and in-ground storage, to capture rainfall runoff from roofs and pavement. Utilize equipment that harvests water from the air.
 - g. Install or replace plumbing fixtures with water-conserving plumbing fixtures such as high-efficiency toilets, showerheads and faucets.
 - h. Reduce the length of showers or the amount of water used for baths.
 - i. While pre-heating shower, collect unused water in a bucket and save it to irrigate landscaping.
 - j. Turn off the water while brushing your teeth or shaving.
 - k. Install high efficiency washing machines, dishwashers and toilets.
 - l. Only wash laundry and dishes with full loads.
 - m. Install a "laundry-to-landscape" graywater system.
 - n. For pre-cleaning dishes, use a filled sink instead of running water.
 - o. Consider installing an instant water heater on sinks that are located far from the main water heater.
 - p. Wash vehicles using a waterless car wash product. A waterless car wash is an eco-friendly and efficient car wash that uses little or no water.

- q. Watch for and report broken, poorly timed or misaligned sprinklers around the community.
 - r. After a power outage, irrigation timers often reset to default. Check irrigation timers often.
8. Appeals and Exceptions.
- a. Any customer may appeal any decision made or fine imposed under this Ordinance to the Board of Directors by filing a written appeal with the District within 30 days of written notice of the decision or fine. Such an appeal shall be accompanied by an appeal fee in an amount established from time to time by resolution of the Board of Directors and refundable should the appeal be granted. The Appeals Committee will hear the appellant and make a recommendation to the Board of Directors. The Board of Directors shall consider the recommendations of the Appeals Committee. The District shall give the appellant written notice of the meetings at which the appeal will be considered by the Appeals Committee and the Board.
 - b. The Board of Directors may, in its discretion, continue a hearing, affirm, reverse, or modify the Appeals Committee's recommendation and make any adjustments and impose any conditions it deems just and proper, if it finds one or more of the following: (1) the restrictions of this Ordinance would cause an undue hardship; (2) the granting of the appeal will not significantly adversely affect the goals of this Ordinance; (3) due to peculiar facts and circumstances, none of the provisions of this Ordinance are applicable to the situation under consideration; or (4) error in the application of this Ordinance or other applicable rules or law.
 - c. The Board's decision shall be written and provided to the appellant and any other person who requests notice of the decision in writing. Such decisions are final as to the District and not subject to further appeal unless the Board's decision expressly provides otherwise. Judicial review of final decisions shall be available pursuant to California Code of Civil Procedure section 1094.5.
9. Suspension of Conflicting Ordinances and Rules and Regulations. To the extent that the terms and provisions of this Ordinance are inconsistent, or in conflict with the terms and provisions of any prior District Ordinances, Resolutions, Rules, or Regulations, the terms of this Ordinance shall prevail and inconsistent and conflicting provisions of prior Ordinances, Resolutions, Rules, or Regulations shall be suspended during the effective period of this Ordinance.
10. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, that invalidity shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be invalid.

11. Effective Date. This Ordinance shall become effective upon adoption and shall remain in effect until the Board declares that a water shortage emergency no longer exists.

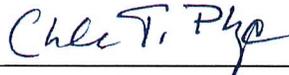
PASSED, APPROVED AND ADOPTED by the Board of Directors of the Montecito Water District this 8th day of June 2022.

AYES: Directors Coates, Goebel, Hayman, and Plough

NAYS:

ABSENT: Director Wicks

APPROVED:



Tobe Plough, President

ATTEST:

APPROVED AS TO FORM AND CONTENT



Nick Turner, Secretary



Robert Cohen, District Counsel