

STINSON BEACH COUNTY WATER DISTRICT ORDINANCE NO. GB-2014-02 AMENDED AND RESTATED WATER RATIONING ORDINANCE

AN AMENDED AND RESTATED ORDINANCE DECLARING A WATER SHORTAGE EMERGENCY AND ESTABLISHING REGULATIONS AND RESTRICTIONS FOR WATER RATIONING DURING THE WATER SHORTAGE EMERGENCY

SECTION 1. FINDINGS AND DETERMINATIONS

The Board of Directors of the Stinson Beach County Water District ("District") finds and declares the following:

- a. The District's sole sources of water supply are local supplies from (1) surface water provided by rainfall and runoff from the Mount Tamalpais watershed; and (2) groundwater produced from the Bolinas Lagoon groundwater basin.
- b. The District has been in a Stage I Water Conservation Alert since September 2012, and in a Stage II Water Conservation Alert since April 2013. The severity of the water shortage has continued to escalate due to warm weather and insufficient rainfall.
- c. Locally, calendar year 2013 was the driest year on record and the first part of calendar year 2014 has been critically dry as well, severely impacting local surface water and groundwater supplies.
- d. On January 17, 2014, the Governor of California proclaimed a State of Emergency to exist in California due to severe water shortage and drought conditions, and ordered that all urban water suppliers implement their water shortage contingency plans to effect a reduction in water use.
- e. On February 15, 2014, after consideration of the water supply situation for several months, including the introduction of an ordinance on January 18, 2014, the Board adopted an Ordinance Declaring a Water Shortage Emergency and Establishing Regulations and Restrictions for Water Rationing During a Water Shortage Emergency ("Water Rationing Ordinance"). The Water Rationing Ordinance was adopted because the ordinary demands and requirements of the District's water service customers could not be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.
- f. Additional findings supporting the actions in this Amended and Restated Ordinance are set forth in the staff report for this Ordinance, and in the February 12, 2014 and February 20, 2014 staff reports, which are incorporated into this Amended and Restated Ordinance by this reference.
- g. The Water Rationing Ordinance included an effective date of March 1, 2014. However, the District has delayed its effective date in order to evaluate and develop regulations for the implementation of the Water Rationing Ordinance, to further involve and communicate with the District's customers, and to allow for additional time for the District's customers to plan and prepare for the water use restrictions. Moreover, the precipitation in March helped enable the District to delay the implementation of the Water Rationing Ordinance.
- h. The Board has discussed and considered clarifications, revisions, and additions to the Water Rationing Ordinance at seven (7) open and noticed public Board of Directors meetings on the following dates: January 18, February 15, February 24, March 12, March 15, March 24 and April 19.

- i. On June 21, 2014, at a properly noticed Board meeting, the Board considered modifying the water use restrictions and the enforcement mechanisms in the Water Rationing Ordinance, including the potential adoption of a drought excess water use charge, and decided to hold a public hearing on August 16, 2014 on these issues to provide property owners and customers in the District an opportunity to be heard, to present their needs, and to protest the drought excess water use charge.
- j. The drought excess water use charge is necessary to satisfy the following purposes: (1) to conserve and preserve the limited water supply in the water shortage emergency; (2) to generate revenues as a result of selling less water in order for the District to continue to operate and maintain its water system facilities; (3) to cover the costs of monitoring and enforcing the water use restrictions and implementing the procedures set forth in this Amended and Restated Ordinance; (4) to pay for the increase in resources needed for water conservation and drought education and community outreach; and (5) to replenish reserves that are used during the water shortage emergency.
- k. The drought excess water use charge was discussed and developed after extensive discussion at two (2) Board meetings held on March 24 and April 19, and after those meetings, the District is proposing a drought excess water use charge of \$100 per 100 cubic feet of water used that exceeds the allotment.
- l. In addition, the District is proposing increasing the fines for exceeding the water use restrictions set forth in the Ordinance. These fines are penalties for violating the water use restrictions, and are intended to prevent such violations. These fines are not related to the provision of water service.
- m. The District prepared a notice that describes the amount, basis for calculating, and the reasons for the proposed drought excess water use charge and fines and mailed the written notice to all the property owners and customers in the District at least 45 days before the date of the public hearing.
- n. The District published a notice of the public hearing in the Marin Independent Journal, a newspaper in general circulation within the service area of the District, one time at least seven days prior to the date of the public hearing, posted the notice in various conspicuous and accessible locations within the District, and included the notice on the District's website.
- o. The District published the full text of this Ordinance in the Marin Independent Journal at least five days prior to the date of the public hearing, and posted the full text of this Ordinance in the office of the District, and on the District's website.
- p. The District held the public hearing at the August 16, 2014 Board meeting, accepted comments and protests before and through the conclusion of the public hearing, and the Board considered all comments and protests received.
- q. The Board finds the drought excess water use charge, fines, and water use restrictions reasonable and required for the proper operation of the District during the declared water shortage emergency.
- r. The Board further finds that the drought excess water use charge, fines, and water use restrictions are exempt from the California Environmental Quality Act, pursuant to (1) Section 21080(b)(8) of the California Public Resources Code because they are for the purposes of meeting operating expenses, purchasing or leasing supplies, equipment and materials, meeting financial reserve requirements, and obtaining funds for capital projects necessary to maintain service and system reliability within the existing service area; and (2) the CEQA Guidelines, specifically Section 15269(c) as immediate actions necessary to prevent or mitigate an

emergency and Section 15307 to assure the maintenance, restoration, or enhancement of a natural resource.

SECTION 2. DECLARATION OF WATER SHORTAGE EMERGENCY

The District declares that a water shortage emergency condition exists within the service boundaries of the District. The water shortage exists because the ordinary demands and requirements of the water consumers in the District's service area cannot be met and satisfied by the water supplies now available without depleting the water supply or diminishing its quality to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

SECTION 3. PURPOSE AND AUTHORITY

The purpose of this Amended and Restated Ordinance is to amend and restate the Water Rationing Ordinance and to conserve the water supply of the District in the declared water shortage emergency for the greatest public benefit with particular regard to public health, fire protection, and domestic use; to conserve water by reducing and restricting nonessential water use that if continued in the water shortage emergency would constitute waste; and to the extent necessary by reason of drought, to reduce water use fairly and equitably. This Ordinance is adopted pursuant to the District's authority under California Water Code Sections 350 *et seq.* and 31026 *et seq.*

In addition, the drought excess water use charge and fines are being adopted pursuant to Proposition 218 (California Constitution, Article XIID, Section 6).

SECTION 4. EFFECTIVE DATE

This Amended and Restated Ordinance is effective immediately upon its adoption by the Board of Directors of the District, and will control over any other ordinance, resolution, or regulation of the District that conflicts with it. This Amended and Restated Ordinance will remain in effect until the Board of Directors of the District declares that the water shortage emergency has ended.

SECTION 5. RULES AND REGULATIONS FOR WATER USE RESTRICTIONS

These rules and regulations for water use restrictions apply during the water shortage emergency in order to preserve the District's water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.

1. DEFINITIONS:

- A. Allotment - The amount of water allowed to flow through each water meter pursuant to these Rules and Regulations.
- B. Applicant - The person(s) requesting Allotments in excess of those permitted in Section 2 below.
- C. Domicile - That place where the habitation of a person is fixed, where the person has the intention of making their permanent home; where they intend to remain, and to which whenever that person is absent, the person has the intention of returning and that they resided there for 6 months and 1 day in the last calendar year, not necessarily consecutively. Domicile may be proven by, among other things, a person's address for purposes of voting, or homeowner's exemption, bank accounts, etc.
- D. Full Time Resident – A person who maintains their domicile in a residence as defined in Paragraph C. above in Stinson Beach.
- E. Household - A single residential unit that constitutes the domicile of one or more persons. There may be several households in a single residence.
- F. Implementation Period – Period of time after a Triggering Point in which the Rules and Regulations are enforced by the Water District.

G. Suspension Point – When during an Implementation Period there has been sufficient rainfall so that all storage tanks have refilled to capacity for seven days in a row, and the District may notify its customers that the Implementation Period has ended.

H. Residence – A habitable structure served by a water meter.

I. Triggering Point – The seventh day in a row during which the average of all storage tanks have failed to refill to 70% of their capacity.

2. RESIDENTIAL USE:

The amount of water that can be used by each residence with a water meter served by the Stinson Beach County Water District is limited to a maximum daily average allotment of 125 gallons per day.

A. Additional Allotments for Large Households:

Where four or more full time residents occupy a single residence served by one water meter, the maximum daily allowance may be increased to the amounts listed below:

Four residents – 145 gallons per day

Five residents – 160 gallons per day

Six residents – 175 gallons per day

Seven or more residents – 185 gallons per day

In no case shall the additional Allotment exceed the average daily flow allowed by the Discharge Permit for an Onsite Wastewater Disposal System granted to the subject property.

B. Procedure for Obtaining Additional Allotments for large households:

1. The Applicant must fill out the required form that requests the name, age and verification of full time residency (previously defined under 1. D) of each resident in the household for which the additional allotment is requested. The information on the application shall be presented under penalty of perjury. The additional allotment request shall be submitted to the General Manager of the District, who will approve or disapprove the request within 10 business days of submission of a completed application.

2. If the application is disapproved, the General Manager will explain in writing the reason for the disapproval, and if the Applicant is not satisfied with the decision of the General Manager, the Applicant may appeal the General Manager's decision to the District's Board of Directors

3. An appeal from the General Manager's decision must contain all of the following: (a) a copy of the original application; (b) a copy of the written explanation of the General Manager's decision; and (c) a written explanation of why the Applicant believes the decision should be changed. The appeal will be heard at the next regularly scheduled Board meeting provided that, to permit the members of the Board to review the appeal before the meeting, the appeal is presented to the Board at least 10 business days before that meeting.

C. Additional Allotments for Multi-Residential Customers Where Two or More Households are Served by One Meter:

1. Where the water use of two or more households or apartments is measured by only one meter, the maximum amount of daily allowed water use will be the lesser of: (a) the amounts obtained by multiplying the number of

households or apartments by 125 gallons per day; or (b) by 80% of the average monthly amount of water measured by the meter in 2013 for the month of usage. In no case shall the extra allotment exceed the average daily flow allowed by the Discharge Permit for an Onsite Wastewater Disposal System granted to the subject property.

2. The domiciliaries of the multi-unit residences will be responsible for dividing the allocated water among them.

D. Procedure for Obtaining Additional Allotments for Multi-Residential Customers Where Two or More Households are Served by One Meter:

Where two or more residences are served by one meter, the account holder of the meter, or at least one full time resident of the multiple residence (or one representative of each household) may apply for additional allotments as follows:

1. The Applicant must fill out the required form that lists the number of units served by the single meter and submit a use permit issued by the County of Marin for the multi-unit residence served by the meter. The additional allotment request shall be submitted to the General Manager of the District, who will approve or disapprove the request within 10 business days of submission of a completed application. The Application shall be submitted under penalty of perjury.

2. If the application is disapproved, the General Manager will explain in writing the reason for the disapproval, and if the Applicant is not satisfied with the decision of the General Manager, the Applicant may appeal the General Manager's decision to the District's Board of Directors.

3. An appeal from the General Manager's decision must contain all of the following: (a) a copy of the original application; (b) a copy of the written explanation of the General Manager's decision; and (c) a written explanation of why the Applicant believes the decision should be changed. The appeal will be heard at the next regularly scheduled Board meeting provided that, to permit the members of the Board to review the appeal before the meeting, the appeal is presented to the Board at least 10 business days before that meeting.

E. Additional Allotments for Special Needs:

1. Where more water than allowed in Section 2 above is necessary to preserve the health or safety of a full time resident or his or her household, the General Manager may increase the allocation to the Residence during the period of need according to the needs of the Applicant. In no case shall the extra allotment exceed the average daily flow allowed by the Discharge Permit for an Onsite Wastewater Disposal System granted to the subject property.

2. The Applicant or his or her representative may file a request for an additional allotment according to the application procedures set forth above in Sections A and B or Sections C and D, whichever most closely applies, except that the Applicant shall state in a letter to the General Manager: (1) the amount of the requested allotment, and (2) a general statement in support of the need. Where appropriate, Applicant shall provide a letter from a Doctor stating the need for additional water usage and projected duration of that need, if possible, or other appropriate justification for the special need.

3. If the General Manager does not approve, the Applicant may appeal to the Board. An appeal from the General Manager's decision must contain all of the following: (a) a copy of the original application; (b) a copy of the written explanation of the General Manager's decision; and (c) a written explanation of why the Applicant believes the decision should be changed. The appeal will be heard at the next regularly scheduled Board meeting provided that, to permit the members of the Board to review the appeal before the meeting, the appeal is presented to the Board at least 10 business days before that meeting.

3. COMMERCIAL USE:

Each commercial establishment whose business requires water use, will have an Allotment that is equal to 80% of the average monthly amount of water measured by the meter in 2013 for the month of usage and therefore must voluntarily reduce its use of water each month by 20% of their usage for that month in 2013.

The Applicant or his or her representative may file a request for an additional allotment. The Applicant shall state in a letter to the General Manager: (1) the amount of the requested allotment, and (2) a general statement in support of the need. If the request is disapproved, the General Manager will explain in writing the reason for the disapproval, and if the Applicant is not satisfied with the decision of the General Manager, the Applicant may appeal the General Manager's decision to the District's Board of Directors.

4. ENFORCEMENT/FINES:

The District is authorized to implement the fines and penalties authorized by this Ordinance in the manner set forth below upon the occurrence of a Triggering Point which shall be the failure of the average of all storage tanks to refill to 70% of their capacity for seven days in a row.

The Manager shall give notice to its customers via newsletter mailed to each customer and posted at the Stinson Beach Market, the U.S. Post Office, the Stinson Beach Community Center, and the District office at 3785 Shoreline Highway that the implementation will begin at the first day of the following month, unless there is less than two weeks until the end of the month, in which case, the effective date will be the first calendar day of the following month.

If after a Triggering Point has occurred and been noticed and implementation of the rules and regulations has commenced (Implementation Period) and there has been sufficient rainfall so that all the storage tanks are refilling to at least 70% of capacity for 7 days in a row (Suspension Point), the District shall suspend the implementation of the rules and regulations. The District shall promptly notify its customers that implementation of the rules and regulations has been suspended but may be implemented again if a Triggering Point occurs.

A. The first month water usage exceeds the maximum Allotment, the user will receive a written warning of overuse and a copy of this Ordinance that includes information about seeking additional Allotments.

B. The second month water usage exceeds the maximum Allotment, the user will receive a fine of \$100.00. Fines should be paid within 30 days of the notice.

C. The third month the water usage exceeds the maximum Allotment, the user will receive a fine of \$500.00. Fines should be paid within 30 days of the notice. After the third month the water usage exceeds the maximum Allotment, if the customer does not pay any fine that is imposed, the District may proceed to terminate the customer's water service. The user shall appear in person before the Board to show cause why their water service should not be terminated

D. Any user who receives a notice or fine pursuant to the above (or has their water turned off) may appeal such fine or notice to the Board of Directors by submitting in writing a detailed analysis of the overuse and a practical and reasonable plan to reduce water usage to allowable levels. The Board of Directors, in its discretion, may alter the amount of any fine, and/or impose other conditions on the use of water.

E. In any Implementation Period, the calculation of the number of months of excess water usage that determines the amount of fees and/or fines imposed need not be consecutive. In any one Implementation Period, the calculation of the number of months of excess water usage shall not include the number of

months of excess usage from any previous Implementation Period.

SECTION 6. DROUGHT EXCESS WATER USE CHARGE

During the water shortage emergency, for each unit of water that is used by any District customer that exceeds that customer's Allotment, a drought excess water use charge in the amount of \$100 per 100 cubic feet will be added to the tiered system water use rate set forth in the District's Rates and Fees Schedule. Therefore, when a customer exceeds its Allotment, the customer must pay the water use rate for each unit of water used, and, for each unit of water used that exceeds the customer's Allotment, the customer also must pay the drought excess water use charge. The customer also must pay all fines pursuant to Section 5 above.

The District is authorized to implement the excess water use charge upon the occurrence of the triggering point as defined in Section 5 above and after the issuance of the first month's warning.

SECTION 7. SEVERABILITY

If any provision of this Amended and Restated Ordinance is held to be invalid or unenforceable, that holding will not affect the remainder of this Ordinance, which will remain in full force and effect.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Stinson Beach County Water District that this Amended and Restated Water Rationing Ordinance is hereby adopted.

ADOPTED this 16th day of August 2014 at a duly held Board of Directors Meeting, by the following vote:

AYES: Baskin, Boucke, Cross, Nelsen

NOES:

ABSENT: Zell

ABSTAIN:

Barbara Boucke, Board of Directors President
Stinson Beach County Water District

Attest:

(Seal)

Ed Schmidt, Secretary to the Board/General Manager
Stinson Beach County Water District