

**MARIN MUNICIPAL WATER DISTRICT  
ORDINANCE NO. 469**

**AN ORDINANCE AMENDING PROVISIONS OF TITLE 11 ENTITLED WATER SERVICE RULES AND REGULATIONS AND TITLE 13 ENTITLED WATER SERVICE CONDITIONS AND WATER CONSERVATION MEASURES OF THE MUNICIPAL WATER DISTRICT CODE RELATED TO CAPACITY CHARGES**

**BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE MARIN MUNICIPAL WATER DISTRICT AS FOLLOWS:**

**SECTION 1. Purpose:** The purpose of this Ordinance is to align provisions of the District Code with proposed updates to the District's capacity charges. This includes using industry standard terminology, such as "capacity charges" rather than "connection fees". Additionally, the revisions in the Ordinance reflect that the proposed capacity charges will be based on water meter size, rather than the District's historic practice of assigning water entitlements based on estimated water usage to calculate capacity charges for new and upgraded water service connections.

**SECTION 2. Section 11.08.025 of the Marin Municipal Water District Code entitled "Off services and services with minimal or no consumption" is hereby amended to read as follows:**

**§ 11.08.025. Off services and services with minimal or no consumption.**

- (a) For any service to be activated for which an application or variance has previously been approved, the applicant must provide the district with a building permit which indicates the proposed use of the service, and such use must be consistent with the use stated on the service application or in the variance approval, or as set forth in the pipeline extension agreement.
- (b) Services, the meters to which are being read and billed, that have had minimal or no consumption for two or more years shall be reviewed by staff to ascertain their status. Such services should be put to their intended use or may lose their water service. Such services required to have water budgets, which did not receive water budgets at the time of activation shall be given water budgets prior to the commencement of water use and pay capacity charges, based on water meter size, at that time equal to the difference between the capacity charge originally paid and the capacity charge applicable at the time of use. The term "activation" for purposes of this subsection means connection of the water service to a structure permitted to be occupied under applicable local building codes or application of the water to the purpose for which the service was sought where service was for irrigation purposes.

**SECTION 3. Section 11.08.030 of the Marin Municipal Water District Code entitled "Change in character or increase in the amount of water use from existing connection" is hereby amended to read as follows:**

**§ 11.08.030. Change in character or increase in the amount of water use from existing connection.**

All services are granted solely for the specific use and customer type for which the application was made. No substantial change in the character of water use or increase in the amount of water use through an existing service connection, which would require the upgrade of the water meter serving the property, shall be made except by making application therefor to the district. At the time the application is made, the district shall determine, based upon probable peak demand, whether the existing water meter and piping are of adequate size for the new use.

The district will review services at its discretion for substantial changes in character or increase in use:

- (1) A substantial change in the character of water use includes but is not limited to, change from one of the following uses to another: single-family residential, multiple residential, commercial, industrial or irrigation;
- (2) A substantial increase in the amount of water use is defined as an increase over the current water use for the property that would require the upgrade of the existing water meter serving the property.

The district will permit water consumption to exceed an existing service's water use so long as no building modifications have been made, there has been no expansion of landscape, and water is being used without waste. However, payment for water use in the higher rate tiers will not result in an increase in the service's water budget or be deemed a credit toward capacity charges necessary to purchase a larger water meter size. In the event of the imposition of water rationing, the rationed allocation will be based on the water budget for the service and not on the demonstrated usage level.

**SECTION 4. Section 11.08.035 of the Marin Municipal Water District Code entitled "Water budgets" is hereby amended to read as follows:**

**§ 11.08.035. Water budgets.**

The district may assign an annual water budget to all new or existing services. The water budget will be the district's determination of the actual consumption requirement of the service and will be based upon, but is not limited to, consideration of consumption history, estimated annual consumption, site audits, and area averages for similar services.

**SECTION 5. Section 11.080.040 of the Marin Municipal Water District Code entitled "Application for new service connection" is hereby retitled and amended to read as follows:**

**§ 11.08.040. Application for new or upgraded service connection.**

Applicants requesting water service which requires the installation of a new service or which substantially changes the character of water use or amount of water use of an existing service, which would require the upgrade of the existing water meter serving the property, shall make written application for a new or upgraded service connection and water budget on a form provided by the district and all blanks thereon shall be filled in or completed. The district

shall, at its sole discretion, determine the appropriate service and meter size required based upon probable peak demand. When the proper size of service and meter for the use applied for has been determined, and the installation made, the district shall have fulfilled its obligation insofar as the installation is concerned.

**SECTION 6. Section 11.08.160 of the Marin Municipal Water District Code entitled “Charges for installation for new service connections” is hereby amended to read as follows:**

**§ 11.08.160. Charges for installation for new service connections.**

Upon approval of an application for a new service connection and payment by the applicant of the service installation charge and capacity charges set forth in Chapter 11.56, the district will make all necessary installations. All deposits made for such charges and fees shall be credited to the parcel of land to be served, shall run with said parcel of land, and are refundable only to the owner of record of said parcel or his designee.

**SECTION 7. Section 11.08.170 of the Marin Municipal Water District Code entitled “Applications and services run with the land” is hereby amended to read as follows:**

**§ 11.08.170. Applications and services run with the land.**

Each application and each water service approved pursuant thereto runs with the parcel of land for which it is applied and/or approved and may not be transferred to any other parcel of land.

**SECTION 8. Section 11.08.180 of the Marin Municipal Water District Code entitled “Assessment of water entitlements” is hereby retitled and amended to read as follows:**

**§ 11.08.180. Water Budgets for Single-Family Zoned Parcels with Potable Residential Irrigation Services.**

- (1) Subject to the exclusions set forth in paragraph (5) of this section, a property zoned as single-family residential, supplied by both a potable residential service connection and a potable irrigation service connection that is used for private enjoyment and is not considered to provide a public benefit (as determined by the District) shall be assigned a combined maximum water budget and shall receive metered service subject to, on a cumulative basis, the tiered water rate schedule applicable to a single-family residential consumer.
- (2) Subject to the exclusions set forth in paragraph (5) of this section, a property with a single-family dwelling and a second living unit, supplied by an individual potable service connection or separate services in addition to a potable irrigation service connection, shall be assigned a combined maximum potable water budget and shall receive metered service subject to, on a cumulative basis, the tiered water rate schedule applicable to a single-family residential consumer with two legal living units.
- (3) Subject to the exclusions set forth in paragraph (5) of this section, a potable irrigation service serving private landscaping located on an otherwise undeveloped parcel zoned

single-family residential shall retain its existing budget, or be assigned a water budget and tiered water rate schedule applicable to a single-family residential consumer, whichever is less.

- (4) Section 11.08.180(3) does not apply to residential potable irrigation services supplying water for landscaping that provides a public benefit and exists as a requirement of another public agency.
- (5) Where there is an existing potable irrigation service supplying a property zoned for either (i) a single-family residential use, or (ii) for a single-family use with a second dwelling unit, such service shall continue to maintain its existing water budget and be subject to the tiered water rate schedule applicable to each such service, until such time as the property is sold or transferred. Transfer of the property to a spouse, living trust where there is no change in beneficial ownership, or domestic partner of the property owner(s) shall not constitute a transfer of the property within the meaning of this section.

a. Definitions:

"Transfer to a spouse or domestic partner" is defined as:

- (aa) Transfers to a trustee for the beneficial use of a spouse or domestic partner, or the surviving spouse or domestic partner of a deceased transferor, or by a trustee of such a trust to the spouse or domestic partner of the trustor;
- (bb) Transfers which take effect upon the death of a spouse or domestic partner;
- (cc) Transfers to a spouse or domestic partner or former spouse or former domestic partner in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or domestic partnership; or
- (dd) The creation, transfer, or termination, solely between spouses or domestic partners, of any co-owner's interest.
- (ee) The distribution of a legal entity's property to a spouse or domestic partner or former spouse or former domestic partner in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation or domestic partnership.
- (ff) Domestic partner is defined herein to be consistent with California Family Code Section 297.

"Transfer to a living trust" is defined as: Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (aa) the transferor is the present beneficiary of the trust, or (bb) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (aa) or (bb) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

- (6) All customers with potable irrigation services, as described in paragraphs (1), (2), and (3) of this section, must comply with District water efficiency standards which may be amended from time to time. Watering by hand shall be considered an acceptable form of irrigation for such existing landscapes. Any new landscaping must comply with District requirements in effect at the time of installation and must be approved by the District prior to installation.
- (7) The District reserves the right to allocate water, including potable water for irrigation services, as necessary for the beneficial use of its consumers. Under state law, the District has the discretion at all times, especially in times of shortage or water shortage emergencies to allocate all of the water supply as it deems necessary and appropriate. The water provided to those consumers with potable irrigation services may be reduced or eliminated at any time, when, in the discretion of the Board, it is necessary for the public health and safety to do so. Those times include, but are not limited to times of shortage or drought.
- (8) No new potable residential irrigation service connections for single-family zoned parcels shall be permitted by the District.

**SECTION 9. Section 11.24.050 of the Marin Municipal Water District Code entitled "Billing baselines and baseline adjustments" is hereby retitled and amended to read as follows:**

**§ 11.24.050. Billing baselines and baseline adjustments for services assigned water budgets.**

- (a) For the purpose of billing, a service's water budget will be divided between six bimonthly billing periods. If a water budget is assigned to a service, the six bimonthly baseline allotments will be determined by the district at the time of water budget assignment. For services assigned water budgets that are billed on a monthly basis, twelve monthly baseline allotments will be determined by the district at the time of water budget assignment.
- (b) The consumer shall have the right to adjust the baseline once each calendar year, as long as the new baseline does not exceed the annual water budget for the service, without paying a fee to the district. The district will charge seventy-five dollars for a second baseline adjustment requested by the consumer within one calendar year. For a third baseline adjustment requested by the consumer within one calendar year, the district will charge fifty dollars per hour of staff time. The consumer shall be allowed a maximum of three baseline adjustments within any two calendar year period.

- (c) Baseline adjustments shall apply to only current and future bills. For the adjustment to apply to the current bill, the consumer must submit the request for the adjustment to the district within the first thirty days of said billing period. No baseline adjustments will be used to retroactively adjust previous bills.

**SECTION 10. Section 11.32.120 of the Marin Municipal Water District Code entitled “Use of recycled water service required” is hereby retitled and amended to read as follows:**

**Section 11.32.120 Use of Recycled Water Service Required.**

All existing customers of the district and any new applicants for water service whose properties may be served by recycled water provided by the district shall connect their property to such recycled water service for those uses for which the use of potable domestic water would be deemed a waste or unreasonable use of water as specified in the California Water Code and the state and local regulations promulgated pursuant thereto. Failure of an existing district customer to accept service of recycled water when it is made available by the district where use of potable water would otherwise be deemed a waste or unreasonable use of water as specified above shall be grounds for termination of the customer's potable water service. Failure of a customer for recycled water to comply with the conditions specified for its use set out in this code and in the application for water service shall be grounds for termination of recycled water service and curtailment and/or termination of any potable water service provided to the extent the customer attempts to apply potable water to the uses specified for recycled water. No capacity charge shall be assessed where recycled water replaces potable water to which a customer already paid capacity charges; however, the customer shall be liable for the cost of connecting his plumbing at the point of connection as determined by the district and any costs of making his private plumbing and irrigation system conform to state health standards.

**SECTION 11. Section 11.36.080 of the Marin Municipal Water District Code entitled “Deadline to Activate Service” is hereby amended to read as follows:**

**11.36.080 Deadline to Activate Service.**

Services installed under pipeline extension agreements approved by the district shall have eight years from the date of completion of facilities installed pursuant to said agreements to be put to the use for which application was made. If activation is not achieved in the time specified, the district will cause the service to be abandoned and will refund the capacity charges, less the cost of abandoning the service, to the owner of record or his designee.

**SECTION 12. Section 11.40.020 of the Marin Municipal Water District Code entitled “Extension of Gravity System” is hereby amended to read as follows:**

**11.40.020 Extension of Existing Gravity System.**

Applicants for water main extensions to areas which, in the opinion of the district, can be served by extending the existing gravity system of the district shall:

(1) Pay to the district the full cost of furnishing and installing all necessary pipe, valves, fittings, service connections and appurtenant facilities including the cost of inspection during installation as well as all related district labor;

(2) Where the district does not have gravity storage capable of accommodating the storage requirements for the areas to be served, pay to the district the full cost of furnishing and installing all necessary storage facilities, including road access thereto, of such size as to provide required storage capacity equal to twice the estimated average summer day consumption of the area to be served. Payment of the full cost of the storage facilities shall entitle an applicant to a credit of \$0.566 per gallon of such storage capacity against the capacity charge provided for in subsection (b) of Section 11.56.040;

(3) Furnish at no cost to the district all property, easements and rights-of-way reasonably required for tank sites, pump sites, pipelines and access roads;

(4) Pay to the district the full cost of, or furnish at no cost to the district, the facilities described in Section 11.40.050, if applicable.

**SECTION 13. Chapter 11.56 of the Marin Municipal Water District Code entitled “Charges for Service Installations and Connection Fees” is hereby retitled to read as follows:**

**Chapter 11.56 Charges for Service Installations and Capacity Charges.**

**SECTION 14. Section 11.56.040 of the Marin Municipal Water District Code entitled “Connection Fees” is retitled and hereby amended to read as follows:**

**§ 11.56.040. Capacity Charges.**

- (a) In addition to any charges or fees provided for in this chapter, or otherwise required under this code, a capacity charge is established for the privilege of using the district's potable and recycled water systems.
- (b) Except as provided in subsections (c), (d), (e), (f) and (h) of this section, the capacity charges shall be applied to each water meter size required to be purchased by the applicant, less any credits for provision of storage facilities pursuant to Section 11.40.020(2). The Board of Directors shall, in a Board resolution, set forth the method for determining and the amount of the water capacity charge.
- (c) In case of the enlargement of any existing water service connection (i.e., installation of a larger water meter) or change in character of water use of any existing service, the capacity charge shall be levied only upon the difference between the capacity charges for the existing water meter size and the upgraded water meter size using the capacity charge schedule in effect at the time of the water service upgrade.
- (d) RESERVED
- (e) No capacity charges shall be charged for private fire taps.

- (f) The capacity charges established for the privilege of using the district's recycled water system shall be for reimbursement of development of the recycled water supply and installation of the recycled water distribution system.
- (g) The budgeted annual water consumption for nonresidential and dedicated irrigation services is defined as the annual water budget of water per water service based on the actual needs of the service, and the use of water without waste.
- (h) A new or separate water service shall not be required and no capacity charges shall be charged for one junior accessory dwelling unit (JADU) or one accessory dwelling unit (ADU) per lot with a proposed or existing single-family dwelling if the JADU meets the requirements set forth in subsection (1) below or the ADU meets the requirements set forth in subsections (2) or (3) below. However, this section shall not apply to a JADU or an ADU that is constructed with a new single-family home.
  - (1) JADU Contained Within A Single-Family Residence. A JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. The JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure. The JADU shall have a separate entrance from the main entrance to the proposed or existing residence and contain an efficiency kitchen, which includes a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU. Every property with a JADU shall be occupied by the owner of the home, unless the owner is a government agency, land trust, or housing organization, and be legally permitted for use as a JADU with the local jurisdiction overseeing zoning.
  - (2) ADU Contained Within A Single-Family Residence or An Existing Accessory Structure. This category of ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is or will be situated. The ADU shall be within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing accessory structure for the purposes of ingress and egress. The ADU shall have separate exterior access from the proposed or existing single-family dwelling. The total area of floor space for an attached ADU shall not exceed 50% of the existing primary dwelling, and the total floor area for an ADU contained within the space of an existing accessory structure shall not exceed 1,200 square feet.
  - (3) Newly Constructed Attached or Detached ADU. This category of ADU is a newly constructed attached ADU, which expands the space of an existing single-family dwelling more than 150 square feet or a newly constructed detached ADU that provides complete independent living facilities for one or more persons and is located on a lot with an existing primary residence that has an existing water service. The ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the existing single-family dwelling is situated.



The ADU shall have separate exterior access from the existing single-family dwelling. The total area of floor space for an attached ADU shall not exceed 50% of the existing primary dwelling, and the total floor area for a detached ADU shall not exceed 1,200 square feet. Additionally, all newly constructed, attached or detached ADUs described in this section shall be subject to the following conditions:

- (A) Either the ADU or the existing single-family dwelling shall be occupied by the owner of the property upon which the existing single-family residential unit and ADU are located.
  - (B) Both the existing single-family residential dwelling and the ADU shall comply, at minimum, with the water efficiency standards set forth in Section 13.02.021.
  - (C) The applicant shall be a current District customer who has continuously maintained water service at the parcel, on which the ADU will be constructed, for a period of at least one year immediately preceding submission of an application for the waivers set forth in this section.
- (4) For all JADUs and ADUs required to pay capacity charges, those charges shall be proportionate to the burden of the proposed JADU or ADU unit, based upon the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water system.

**SECTION 15. Section 11.56.050 of the Marin Municipal Water District Code entitled “Refund of fees and deposits” is hereby amended to read as follows:**

**§ 11.56.050. Refund of fees and deposits.**

The fees and deposits provided for in Sections 11.56.010, 11.56.020 and 11.56.040 shall be credited to the parcel to be served, run with said parcel of land, and are refundable, where a refund is appropriate, only to the owner of record of such parcel or designee. However, any capacity charge payment made for a water meter size increase above the original meter size purchased under Section 11.56.040, by a party other than the owner of record, shall be refundable to that party or designee, provided the service application reflects that payment was made by the party requesting the refund.

**SECTION 16. Section 13.03.020 of the Marin Municipal Water District Code entitled “Basis for determination of water budget” is hereby amended to read as follows:**

**§ 13.03.020. Basis for determination of water budget.**

The annual water budget for each existing nonresidential and dedicated irrigation water service is determined by the district based upon the amount of the estimated consumption or designated annual consumption as detailed in Section 11.08.035.

**SECTION 17. Section 13.03.030 of the Marin Municipal Water District Code entitled “Water budgets when required” is hereby amended to read as follows:**

**§ 13.03.030. Water budgets when required.**

Non-residential and dedicated irrigation water services must conform to the annual water budget calculated by the district as follows:

- (1) New Services. Immediately upon connection to the District water system.
- (2) Existing Services. As a condition of receipt of a variance or as part of the calculation of allowable use pursuant to Section 13.02.040, or upon receipt of notification from district that an annual water budget for the water service has been prepared by district staff.

**SECTION 18. Section 13.03.031 of the Marin Municipal Water District Code entitled “Increasing a service's water budget” is hereby amended to read as follows:**

**§ 13.03.031. Increasing a service's water budget.**

Requests to increase a non-residential or dedicated irrigation service's water budget shall meet the applicable water efficiency standards in place at the time of the request. Upon determining the service is in compliance with all District codes, rules and regulations and meets the requirements for both indoor and outdoor water use, based on the current water efficiency standards established by the District, the service may be eligible to increase the annual water budget as calculated by staff. Requests to increase a service's water budget may be made once per calendar year.

**SECTION 19. Severability:** If any section, subsection, sentence, clause, phrase, portion or part of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall not affect the validity of the remaining portions of this code. The Board of Directors hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional and, to that end, declares the provisions of this ordinance severable from one another.

**SECTION 20. Effective Date:** This ordinance shall become effective on July 1, 2025.

**PASSED AND ADOPTED** this 18<sup>th</sup> day of March 2025, by the following vote of the Board of Directors:

**AYES:**

**NOES:**

**ABSENT:**

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**Matt Samson**  
**President, Board of Directors**

**ATTEST:**

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**Terrie Gillen**  
**Board Secretary**