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ORDINANCE NO. 43

AN ORDINANCE OF THE BOARD OF DIRECTORS OF
CARLSBAD MUNICIPAL WATER DISTRICT (CMWD),
CARLSBAD, CALIFORNIA, MANDATING USE OF RECYCLED
WATER AND RESCINDING ORDINANCE NO. 31

WHEREAS, the people of the State of California have a primary interest in the development of facilities to reclaim water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state; and (California Water Code Section 13510); and

WHEREAS, conservation of all available water resources requires the maximum reuse of wastewater for beneficial uses of water (California Water Code Section 461); and

WHEREAS, continued use of potable water for irrigation of greenbelt areas may be an unreasonable use of such water where recycled water is available (California Water Code Section 13550);

NOW, THEREFORE, the Board of Directors of the Carlsbad Municipal Water District (CMWD) of the City of Carlsbad, California, hereby ordains as follows:

SECTION 1: FINDINGS

The state policies described above are in the best interest of the District. The majority of jurisdictions in San Diego County have adopted measures to promote water reclamation. This ordinance is necessary to protect the common water supply of the region which is vital to public health and safety, and to prevent endangerment of public and private property. San Diego County is highly dependent on limited imported water for domestic, agricultural, and industrial uses. The reliability of the supply of imported water is uncertain. By developing and utilizing recycled water, the need for additional imported water can be reduced. In light of these circumstances, certain uses of potable water may be considered unreasonable or to constitute a nuisance where recycled water is available or production of recycled water is unduly impaired. Recycled water would be more readily available in seasons of drought when the supply of potable water for nonessential uses may be uncertain.

SECTION 2: WATER RECLAMATION POLICY

It is the policy of the District that recycled water shall be used within the jurisdiction wherever it has determined that its use is economically justified, financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment.

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1 **SECTION 3: DEFINITIONS**

2 The following terms are defined for purposes of this ordinance:

3 3.1 **AGRICULTURAL PURPOSES:** Agricultural purposes include the growing of field and
4 nursery crops, row crops, trees, and vines and the feeding of fowl and livestock.

5 3.2 **ARTIFICIAL LAKES:** A human-made lake, pond, lagoon, or other body of water that is
6 used wholly or partly for landscape, scenic or noncontact recreational purposes.

7 3.3 **COMMERCIAL OFFICE BUILDINGS:** Any building for office or commercial uses with
8 water requirements which include, but are not limited to, landscape irrigation, toilets, urinals and
9 decorative fountains.

10 3.4 **COVERAGE TEST:** The coverage test means a field investigation by a cross-connection
11 control specialist to verify that there is no overspray, misting, ponding, and runoff occurring when
12 the irrigation system is in operation, and that proper color coding and signage is in place for the
13 on-site facilities.

14 3.5 **CROSS-CONNECTION TEST:** A cross-connection test means to verify that the potable
15 and recycled water supplies are not connected to each other by shutting down the recycled water
16 supply to the on-site facilities for 24 hours and determining that the on-site facilities do not
17 become pressurized by the potable water supply at any location. The purpose for the test is to
18 demonstrate that at the time of the test there are no discoverable cross-connections between the
19 site's potable and recycled systems.

20 3.6 **GREENBELT AREAS:** A greenbelt area includes, but is not limited to, golf courses,
21 cemeteries, parks and landscaping.

22 3.7 **INDUSTRIAL PROCESS WATER:** Water used by any industrial facility with process
23 water requirements which include, but are not limited to, rinsing, washing, cooling and circulation,
24 or construction, including any facility regulated by the Industrial Waste Discharge Ordinance
25 regulated by Chapter 13.16 of the Carlsbad Municipal Code.

26 3.8 **OFF-SITE FACILITIES:** Water facilities from the source of supply to the point of
27 connection with the on-site facilities, normally up to and including the water meter.

28 3.9 **ON-SITE FACILITIES:** Water facilities under the control of the owner, normally
downstream from the water meter.

3.10 **POTABLE WATER:** Water which conforms to the federal, state and local standards for
human consumption.

3.11 **RECYCLED WATER:** Recycled water means water which, as a result of treatment of
wastewater, is suitable for a direct beneficial use or a controlled use that would not otherwise
occur and is therefore considered a valuable resource. (See California Water Code Section
13050(n).)

3.12 **RECYCLED WATER DISTRIBUTION SYSTEMS:** A piping system intended for the
delivery of recycled water separate from and in addition to the potable water distribution system.

3.13 **WASTE DISCHARGE:** Waste discharge means water deposited, released or discharged
into a sewer system from any commercial, industrial or residential source which contains levels of
any substance or substances which may cause substantial harm to any water treatment or
reclamation facility or which may prevent any use of recycled water authorized by law.

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1 **SECTION 4: WATER RECLAMATION MASTER PLAN**

2 4.1 GENERAL: Upon adoption of this ordinance, the District shall prepare and adopt by
3 resolution a Water Reclamation Master Plan to define, encourage, and develop the use of
4 recycled water within its boundaries. The Master Plan shall be updated not less often than every
5 five years.

6 4.2 CONTENTS OF THE WATER RECLAMATION MASTER PLAN: The Water Reclamation
7 Master Plan (Master Plan) will include the following:

8 4.2.1 PLANTS AND FACILITIES. Evaluation of the location and size of present and
9 future reclamation treatment plants, distribution pipelines, pump stations, reservoirs, and other
10 related facilities, including cost estimates and potential financing methods.

11 4.2.2 RECYCLED WATER SERVICE AREAS. A designation of the lands within the
12 District service area that can or may in the future use recycled water in lieu of potable water.
13 Recycled water uses may include, but are not limited to, the irrigation of greenbelt and agricultural
14 areas, filling of artificial lakes, and appropriate industrial and commercial uses.

15 4.2.3 QUALITY OF WATER TO BE RECLAIMED. For each water reclamation treatment
16 facility, an evaluation of water quality with respect to the effect on anticipated uses of recycled
17 water to be served by each treatment facility.

18 4.2.4 WATER QUALITY PROTECTION MEASURES. Recommend control measures
19 and management practices to maintain or improve the quality of recycled water.

20 4.2.5 MANDATORY RECYCLED WATER USE. Within the recycled water service area,
21 a description shall be prepared of where greenbelt irrigation, agricultural irrigation, commercial
22 office buildings, filling of artificial lakes, or industrial processes can be limited to the use of
23 recycled water. This information shall be used by District officials to mandate construction of
24 recycled water distribution systems or other facilities in new and existing developments for current
25 or future recycled water use as a condition of any development approval or continued water
26 service if future reclamation facilities are proposed in the Master Plan that could adequately serve
27 the development.

28 4.2.6 RULES AND REGULATIONS FOR RECYCLED WATER USE. Establish by
resolution, general rules and regulations governing the use and distribution of recycled water.

4.2.7 COORDINATION AMONG AGENCIES FOR RECYCLED WATER USE.
An examination shall be made of the potential for initiating a coordinated effort between the
Carlsbad Municipal Water District and other regional agencies to share in the production and
utilization of recycled water.

22 **SECTION 5: PROCEDURES**

23 5.1 EXISTING POTABLE WATER SERVICE:

24 5.1.1 PRELIMINARY DETERMINATION. Based upon the Master Plan, and upon the
25 designation of each recycled water service area or the commencement of the design of new
26 recycled water facilities, the District shall make preliminary determinations as to which existing
27 potable water customers shall be converted to the use of recycled water. Each water customer
shall be notified of the basis for a determination that conversion to recycled water service will be
required, as well as the proposed conditions and of the need for a plan of implementation for such
conversion.

28 5.1.2 NOTICE. The notice of the preliminary determination, including the proposed
conditions and time schedule for compliance, shall be sent to the water customer by certified
mail.

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2 **5.1.3 IMPLEMENTATION.** The water customer shall be required to submit a plan of
3 implementation to the Carlsbad Municipal Water District's Executive Manager or his designee
4 within ninety (90) days after receipt of the notice of preliminary determination.

5 The plan of implementation shall describe in detail how the water customer intends to
6 retrofit his water facilities to use recycled water in accordance with all Federal, State and local
7 laws and public health guidelines. The District shall provide the water customer upon request a
8 copy of its "Rules and Regulations for Recycled Water Use" to be a reference for water
9 customer's in preparing the required plan of implementation for their on-site facilities. All costs for
10 preparation of the plan of implementation are the responsibility of the water customer. Carlsbad
11 Municipal Water District's Executive Manager or his designee shall have the authority to approve
12 the water customer's plan of implementation within thirty (30) days after it is submitted to the
13 District. As an option, the District will prepare the "Plan of Implementation" at the District's cost for
14 the water customer, provided the water customer signs an acknowledgement to install and accept
15 the proposed improvements shown on the District approved Plan of Implementation.
16 Once approved, the plan of implementation must be implemented within six (6) months by the
17 water customer including completion of all coverage and cross connection tests and payment of
18 any plancheck and inspection fees if applicable. All costs for implementation of the improvements
19 on the Plan of Implementation are the responsibility of the water customer. If more than six (6)
20 months is required for the implementation, an appeal may be made for additional time to the
21 Carlsbad Municipal Water District's Board of Directors by submitting such appeal in writing to the
22 Executive Manager of the District.

23 **5.1.4 OBJECTIONS; APPEALS.** The water customer may file a notice of objection with
24 the District within thirty (30) days after any notice of determination to comply is delivered or
25 mailed to the customer, and may request reconsideration of the determination or modification of
26 the proposed conditions or schedule for conversion. The objection must be in writing and specify
27 the reasons for the objection. The preliminary determination shall be final if the customer does not
28 file a timely objection. The Executive Manager or his designee, shall review the objection with the
objector, and shall confirm, modify or abandon the preliminary determination or submit the
objection to the District's Board of Directors. The Board, at its sole discretion may confirm, modify
or abandon the preliminary determination or establish an alternative program intended to facilitate
the orderly development of the recycled water system.

18 **5.2 NEW DEVELOPMENT AND WATER SERVICE APPROVALS:**

19 **5.2.1 CONDITIONS.** Upon application by a developer, owner or water customer (herein
20 referred to as "applicant") for a tentative map, subdivision map, land use permit, or other
21 development project as defined by Government Code Section 65928, staff shall review the
22 Master Plan and make a preliminary determination whether the current or proposed use of the
23 subject property is required to be served with recycled water or to include facilities designed to
24 accommodate the use of recycled water in the future. Based upon such determination, use of
25 recycled water and provision of recycled water distribution systems or other facilities for the use
26 of recycled water, and such use may be required as a condition of approval of any such
27 application, in addition to any other conditions of approval.

24 **5.2.2 ALTERATIONS AND REMODELING.** On a case by case basis, upon application
25 for a permit for the alteration or remodeling of multi-family, commercial or industrial structures
26 (including, for example, hotels), staff shall review the Master Plan and make a preliminary
27 determination whether the subject property shall be required to be served with recycled water or
28 to include facilities designed to accommodate the use of recycled water in the future. Based upon
such determination, use of recycled water and provision of recycled water distribution systems or
other facilities for the use of recycled water, and application for a permit for such use, may be
required as a condition of approval of the application.

28 **5.2.3 NOTICE OF DETERMINATION.** A notice of the basis for the preliminary
determination, proposed conditions of approval and schedule for compliance shall be provided to
the applicant prior to approval of the development application.

1 5.2.4 REQUESTED SERVICE. On a case by case basis, to use recycled water on a
2 property not covered by Sections 5.1.1, 5.2.1, or 5.2.2 above, the District shall review the Master
3 Plan and make a determination whether the subject property shall be served with recycled water.
4 Based upon such determination, a written Notice of Determination will be provided to the water
5 customer by the District.

6 5.2.5 PLAN APPROVAL. Plans for the recycled and non-recycled water distribution
7 systems for the parcel shall be reviewed and approved by the District before on-site facilities are
8 constructed. A recycled water number will be assigned by the District and this number shall be
9 placed on the plans for record purposes.

10 5.2.6 FIELD INSPECTION. Prior to the use of recycled water, the District will perform a
11 coverage test and cross-connection test of the constructed on-site facilities to verify that they are
12 in compliance with the approved Plan and meet all California State Department of Health
13 Services requirements for use of recycled water. Upon approval of the coverage test, the water
14 customer will be required to fill out a Notice of Appointment of Site Supervisor form, and will be
15 provided Rules & Regulations for Recycled Water Use. The water customer's Site Supervisor will
16 also be required to attend the San Diego County Water Authority's training class on use and
17 handling of recycled water, or other approved training class. The coverage test will take place
18 after the recycled water meter is installed. The District and the City of Carlsbad has no required
19 fees for this work but the water customer is responsible for paying San Diego County Department
20 of Environmental Health applicable fees associated with this work.

21 5.3 TEMPORARY USE OF POTABLE WATER: At the discretion of the Executive Manager
22 or his designee, potable water may be made available on a temporary basis until recycled water
23 is available. Before the applicant receives temporary potable water, the on-site facilities must be
24 constructed in accordance with the Plan of Implementation and field inspected by the staff for
25 new on-site distribution facilities. Prior to commencement of recycled water service, a coverage
26 and cross-connection test of the on-site facilities will be conducted to verify that the facilities have
27 been maintained and are in compliance with the recycled water irrigation system Plan of
28 Implementation and current requirements for service. Upon verification of compliance, recycled
water shall be served to the parcel for the intended use. The District shall provide written notice if
the facilities are not in compliance, and the applicant shall be notified of the corrective actions
necessary and shall have sixty (60) days to take such actions prior to initiation of enforcement
proceedings. The water customer will be required to fill out the form described in Section 5.2.6,
and the Site Supervisor will be required to attend the San Diego County Water Authority's class
on use and handling of recycled water or other approved training class.

5.4 RECYCLED WATER RATE: The rate charged for reclaimed water shall be established
by resolution of the Board of Directors.

SECTION 6: REGULATION OF BRINE DISCHARGE TO SEWAGE SYSTEMS

6.1 INTENT: The Carlsbad Municipal Water District recognizes that to maintain adequate
wastewater quality for water reclamation treatment processes, and to protect public and private
property, restrictions may be required on certain industrial, commercial, and residential waste
discharges to a sewerage system that is located within a designated tributary area of an existing
or planned reclamation facility.

6.2 ADOPTED TRIBUTARY PROTECTION MEASURES: Waste discharges to the sewage
system from any industrial, commercial, or residential source, may be restricted or prohibited
upon a finding, following a noticed public hearing, that the type or class of discharge involved is
capable of causing or may cause substantial damage or harm to any sewage treatment or
reclamation facility or to any significant user or users or potential user or users of reclaimed water
within an area which has been planned for reclaimed water services.

1 **SECTION 7: SANCTIONS**

2 7.1 PUBLIC: Discharge by any person or entity of wastes or the use of recycled water in any
3 manner in violation of this ordinance or of any permit issued hereunder is subject to prosecution
4 for a misdemeanor.

5 7.2 INJUNCTION: Whenever a discharge of wastes or use of recycled water is in violation or
6 threatens to cause a violation of this ordinance, the District's attorney may seek injunctive relief
7 as may be appropriate to enjoin such discharge or use.

8 7.3 REVOCATION: In addition to any other statute or rule authorizing termination of water
9 service, the District may revoke the use of recycled water if a violation of any provision of this
10 ordinance is found to exist or if a discharge of wastes or use of recycled water causes or
11 threatens to cause violation of this ordinance.

12 7.4 PENALTY: Except as provided in Subsection 7.1, any owner and/or operator who violates
13 this ordinance shall be subject to:

- 14 A. A fine not exceeding one hundred dollars for the first violation;
- 15 B. A fine not exceeding two hundred dollars for the second violation within one year;
- 16 C. A fine not exceeding five hundred dollars for the third violation within one year;
- 17 D. A fine not exceeding one thousand dollars for the fourth and each additional violation
18 within one year.

19 Each and every day during any portion of which any violation of this ordinance is committed,
20 continued or permitted shall be a separate offense. In addition, potable water service to the
21 property may be discontinued.

22 **SECTION 8: VALIDITY**

23 If any provision of this ordinance or the application thereof to any person or circumstance is held
24 invalid, the remainder of the ordinance and the application of such provisions to other persons or
25 circumstances shall not be affected thereby.

26 **SECTION 9:**The District finds that this Ordinance and actions taken hereafter pursuant to this
27 Ordinance are exempt from the California Environmental Quality Act as actions taken to assure
28 the presentation and enhancement of water resources in accordance with CEQA Guidelines
Sections 15307 and 15308. The Executive Manager of the District is authorized and directed to
file a Notice of Exemption as soon as possible following adoption of this Ordinance.

SECTION 10: EFFECTIVE DATE

This ordinance shall be effective thirty (30) days after its adoption and the Secretary of the Board
of Directors shall certify to the adoption of this ordinance and cause it to be published at least
once in a newspaper of general circulation in the City of Carlsbad within fifteen (15) days after its
adoption.

SECTION 11: (REPEAL)

That Ordinance No. 31 of the District, relating to mandating the use of reclaimed water, is hereby
repealed in its entirety.

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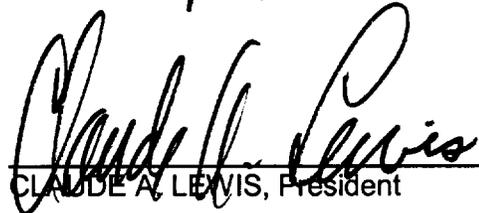
INTRODUCED AND FIRST READ at a regular meeting of said Board of Directors held on the 14th day of JUNE, 2005, and thereafter,

PASSED, APPROVED AND ADOPTED at a special meeting of the Carlsbad Municipal Water District held on the 21st day of JUNE, 2005 by the following vote, to wit:

AYES: Board Members Lewis, Hall, Kulchin, Packard, Sigafoose
NOES: None
ABSENT: None

APPROVED AS TO FORM AND LEGALITY:


RONALD R. BALL, General Counsel
6/22/05.


CLAUDE A. LEWIS, President

ATTEST:


LORRAINE M. WOOD, Secretary
(SEAL)