

ORDINANCE NO. 301

ORDINANCE FORMALLY ESTABLISHING RULES AND REGULATIONS GOVERNING THE USE OF RECYCLED WATER WITHIN THE DUBLIN SAN RAMON SERVICES DISTRICT, AND REPEALING ORDINANCE NO. 280

The Board of Directors (“Board”) of the Dublin San Ramon Services District (“District”), a political subdivision of the State of California, in the Counties of Alameda and Contra Costa, does ordain as follows:

SECTION 1. FINDINGS

This Board finds that:

- A. The people of the State of California (“State”) have a primary interest in the development of facilities to recycle wastewater to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the State (California Water Code, Section 13510);
- B. Conservation of all available water resources requires the maximum reuse of wastewater for beneficial uses of water (California Water Code, Section 461);
- C. Continued use of potable water for irrigation of greenbelt areas and other non-potable uses may be an unreasonable use of such water where recycled water is available (California Water Code, Section 13550);
- D. Resolution No. 42-92 adopted on August 4, 1992, established policies for the use, promotion, and priorities for recycled water service within and outside the District’s water service boundaries;
- E. Ordinance No. 280 established a Recycled Water Use Zone within the District, consisting of all areas currently served by potable water services of the District and those additional

areas designated for such service by the pertinent Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.);

F. The State policies described in previous findings apply within the District. The District is highly dependent on limited imported water for domestic, agricultural and industrial uses, and the reliability of the supply of imported water is uncertain. Developing and utilizing recycled water can reduce the need for additional imported water. Moreover, recycled water is more readily available in seasons of drought when the supply of potable water for nonessential uses may be uncertain. In light of these circumstances, within the Recycled Water Use Zone as confirmed herein, certain uses of potable water may be considered unreasonable pursuant to Section 3 of this Ordinance.

G. The environmental impacts of numerous development projects within the Recycled Water Use Zone have been examined in depth by various land use jurisdictions with the respective responsibility therefor, and for each such development project, the respective land use jurisdictions have adopted mitigation measures that require the use of recycled water for landscape irrigation on certain land use types to reduce the respective environmental impacts of the project under consideration. Accordingly, the respective land use jurisdictions have approved those development projects on the condition that recycled water is used for landscape irrigation. Among the major development projects of this type are the following:

1. The Schaefer Ranch project within the City of Dublin was approved by said City under the Schaefer Ranch General Plan Amendment in conjunction with a Final Environmental Impact Report (FEIR) therefor in May 1996, and the territory

comprising the Schaefer Ranch project was annexed to the District effective December 23, 1997;

2. The Dougherty Valley area in Contra Costa County was approved by said County under the Dougherty Valley Specific Plan in conjunction with an FEIR in November 1996, and, subsequently, Eastern Dougherty Valley (Windemere Ranch) was annexed to the District effective October 20, 1997;

3. Portions of eastern Dublin have been approved by the City under the Eastern Dublin Specific Plan and General Plan Amendment in conjunction with an FEIR for the Eastern Dublin Specific Plan and General Plan Amendment on May 10, 1993, as amended;

H. The District has planned for, and made a commitment to, the provision of recycled water for approved uses within its potable water service area by forming the DSRSD·EBMUD Recycled Water Authority (DERWA), a public agency established by joint exercise of powers agreement between East Bay Municipal Utility District (EBMUD), and this District, and DERWA has certified an FEIR and approved a project that includes the service of recycled water in District's potable water service area;

I District has prepared a Water Master Plan dated September 2000 to define facilities needed for providing recycled water service within the Recycled Water Use Zone;

J. District has prepared Recycled Water Use Guidelines and a Recycled Water Section of the Standard Procedures, Specifications and Drawings ("Standards") which comprise a compilation of the criteria by which the planning, design, construction, operation, maintenance, and use of recycled water are administered by the District;

K. In consideration of the foregoing and to protect the common water supply of the region that is vital to public health and safety and to prevent endangerment of public and private property, requirements for the use of recycled water within the potable water service area of the District shall be, and hereby are, established as set forth this Ordinance.

SECTION 2. RECYCLED WATER USE ZONE

All areas designated for or currently served by potable water services of the District, from and after the effective date hereof, shall be, and hereby are, included within the Recycled Water Use Zone of the District, which zone is hereby established. Designation for potable water services shall mean that certain designation made by the Local Agency Formation Commission under the requirements of Government Code Section 56000 et seq.

SECTION 3. REQUIREMENT TO USE RECYCLED WATER AND RULES AND REGULATIONS GOVERNING SUCH USE

A. **Mandatory Use of Recycled Water**

1. It is the policy of the District that recycled water determined to be available pursuant to Section 13550 of the California Water Code shall be used for non-potable irrigation uses within the designated Recycled Water Use Zone wherever there is not an alternative higher or better use for the recycled water, its use is economically justified, financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment.

Accordingly, unless otherwise provided hereunder, all new development within the Recycled Water Use Zone shall be required to use recycled water for appropriate landscape irrigation. Planning, design and construction in such new development shall incorporate recycled water facilities in conformity with District

Standards, and such facilities shall be connected to and use District recycled water services. The District's determination of appropriate landscape irrigation uses shall be based on Standards and/or requirements for water of unrestricted use quality contained in Title 22 of the California Code of Regulations, as said provisions may from time to time be amended, and applicable requirements of the Department of Health Services for recycled water distribution operations.

2. Compliance with the requirements of this Ordinance shall be a condition precedent to the District's provision of new potable water services within the Recycled Water Use Zone.

3. New development within the Recycled Water Use Zone which the District Engineer or his or her designee determines meets at least one of the following criteria, shall be exempt from the requirements of this Ordinance:

a. Residential development that will contain no landscape areas owned in common requiring irrigation.

b. Development of single-family, detached residences for which no homeowners' or similar association or entity will have responsibility for irrigation system maintenance and operations.

c. Development of single-family, detached residences for which a homeowners' or similar association or entity will have responsibility for irrigation and maintenance operations, but only for individual parcels corresponding to each single-family detached residence ownership.

d. Development for which recycled water service is determined by the District Engineer or his or her designee not to be economical because of its distance from available or planned recycled water sources; and/or because irrigation demands within such development are very slight relative to overall water demands; and/or inadequate recycled water supply is available to serve the demand. Recycled water service that is not economical, as used herein, shall be determined by the District Engineer or his or her designee using such tests as he or she deems appropriate, and nothing in this Ordinance shall be construed to require that the District Engineer or his or her designee hold a hearing or take any evidence.

4. Existing potable water customers within the Recycled Water Use Zone shall be exempt from the requirements of this Ordinance except as set forth in subsections “a” or “b” below.

a. Landscape irrigation for property located within the area described in the Eastern Dublin General Plan Amendment, adopted by the City of Dublin May 10, 1993, shall not be exempt.

b. Any customers who received either a potable water connection or a construction permit (or both) containing conditions requiring use of recycled water or construction of recycled water facilities shall not be exempt.

5. Nothing in this Ordinance shall be construed to prohibit any existing customer from voluntarily applying for recycled water service. The District shall have the right to deny such application if the District Engineer or his or her designee determines that such recycled water service would not be economical because of its

distance from available or planned recycled water sources; and/or because anticipated irrigation demands served through that connection would be very slight relative to overall water demands; and/or because inadequate recycled water supply is available to serve the demand. Recycled water service that is not economical, as used herein, shall be determined by the District Engineer or his or her designee using such tests as he or she deems appropriate, and nothing in this Ordinance shall be construed to require that the District Engineer or his or her designee hold a hearing or take any evidence.

6. Procedures following determination

a. Each applicant or customer shall be notified in writing of any determination made under the preceding paragraphs (3, 4 or 5) and of the basis therefor. The notice, including any proposed conditions and time schedule for compliance, and, if applicable, a recycled water permit application, shall be sent to the applicant or customer by certified mail. The determination shall be final if the applicant or customer does not file a written notice of appeal in compliance with paragraph d within thirty (30) days after receipt of the notice of determination.

b. The applicant or customer may file a written notice of appeal with the District Secretary within thirty (30) days after any notice of determination to comply is delivered or mailed to the applicant or customer, and may request the Board to reconsider the determination or to modify the proposed conditions or schedule for conversion. The notice of appeal must specify

each ground of the appeal. The Board will act on the appeal after reviewing the record of the District Engineer's determination and the written notice of appeal, and such other information that the Board believes is necessary to review the District Engineer's determination. Nothing in this Ordinance shall be construed to require that the Board hold a hearing or take any evidence.

B. Rules and Regulations Governing Use of Recycled Water

1. **Purpose.** The purpose of these rules and regulations is to establish the requirements for the planning, design, construction, operation, and maintenance of customer-owned recycled water systems in compliance with District Standards and the requirements of other regulatory agencies, including the California Department of Health Services (DHS), San Francisco Bay Regional Water Quality Control Board (RWQCB) and the County Environmental Management Department (EMD).

2. **Recycled Water Use Guidelines.** The District Engineer shall prepare, maintain and update from time to time the Recycled Water Use Guidelines to implement these rules and regulations and to establish requirements and standards for the planning, design, construction, operation, and maintenance of customer-owned recycled water systems. Compliance with the Recycled Water Use Guidelines is a requirement of these rules and regulations. In the event of any conflicts between the Recycled Water Use Guidelines and these rules and regulations, these rules and regulations shall prevail.

3. **Need for Site Approval.** In addition, each recycled water use site must be reviewed and approved by the DHS

4. **Land Use Authorities.** Compliance with these rules and regulations will not excuse any requirements for approvals from land use authorities, which may include the submission of plans for the project to city or county departments, agencies, or districts, that have the authority to issue permits and requirements such as: plumbing, permits, building requirements, and planning criteria.

5. **Protection of Public Health.** Notwithstanding compliance with these rules and regulations, the District reserves the right to take any action necessary with respect to the operation of the customer’s recycled water system to safeguard the public health. If at any time during construction or operation of the recycled water system, real or potential hazards are evidenced, such as cross connections with the potable system, improper tagging, signing, or marking, or unapproved/prohibited uses, the District reserves the right and has the authority to terminate immediately, without notice, recycled water service in the interest of protecting the public health.

6. **Recycled Water Use License.** The California Regional Water Quality Control Board requires that the District establish permitting, tracking, record keeping, monitoring, and inspection procedures for all water recycling. The Recycled Water Use License and referenced documents serve as this permit. The Recycled Water Use License constitutes permission for the customer to use recycled water in conformance with all District Standards, Codes, Ordinances, policies and these guidelines including any special site-specific requirements that may be identified. A standard form Recycled Water Use License and required referenced documents shall be included in the Recycled Water Use Guidelines.

7. **Recycled Water Systems Application Process.** Applicant, whether or not an existing potable water customer, shall prepare and submit a general Application for Services that includes a Recycled Water Service – Application/Supplemental Information in the form defined in the Recycled Water Use Guidelines.

8. **General Design Requirements.** To assure the protection of the public and those operating and maintaining the recycled water irrigation system, design of the customer-owned recycled water irrigation facilities is required to meet standards established by the California State Department of Health Services, and the District Engineer shall prepare, maintain and update from time to time the Standards.

9. **Design & Construction of Recycled Water Systems.** Applicant, whether or not an existing potable water customer, shall prepare and submit the construction plans for the required District-owned facilities and the customer-owned facilities in compliance with the requirements set forth in the Recycled Water Use Guidelines and the Standards. Upon approval of the design by the District Engineer, the applicant shall obtain all required permits and construct the recycled water facilities, subject to inspection by the City, County and the District, and shall arrange for testing of backflow prevention devices, testing for cross connections, and coverage testing, all in compliance with the requirements set forth in the Recycled Water Use Guidelines.

10. **On-Site Supervisor of Customer Facilities.** Each recycled water customer is required to designate, in compliance with the Recycled Water Use Guidelines, an On-site Supervisor who is knowledgeable about all facets of the system, and who

shall be responsible for the safe and efficient operation of the customer's recycled water system.

11. **Operation and Maintenance of Recycled Water Systems.** The customer, through the On-site Supervisor, shall operate and maintain the customer's recycled water system in compliance with the requirements set forth in the Recycled Water Use Guidelines.

12. **Emergency Procedures.** In case of a major earthquake, flood, fire, tornado, structural failure, or other incident, which could likely damage the recycled or potable water systems, the customer, through the On-site Supervisor, shall comply with of the emergency procedures' requirements of the Recycled Water Use Guidelines.

13. **Emergency Cross-Connection Response Plan.** In the event that a backflow incident or cross connection is suspected or occurs, the customer shall immediately implement the procedures set forth in the emergency cross-connection response plan of the Recycled Water Use Guidelines.

C. **Payment for Recycled Water Facilities**

Facilities required for provision of recycled water services shall be constructed and financed in conformance with the District Major Infrastructure Policy (Resolution No. 55-97), as said policy provides as of the effective date hereof or as it may from time to time be amended.

SECTION 4. DEFINITIONS

The following terms are defined for purposes of this Ordinance:

A. **Alameda County Environmental Management Department** (Alameda County EMD) - This agency is the local health protection agency for most areas of Alameda County.

B. **Applicant** - Any person or entity that applies for recycled water service under the terms of the appropriate regulations. The approved customer may be a different party than the applicant but must be specified in the Recycled Water Use License.

C. **Approved Use** - An application of recycled water in a manner, and for a purpose, designed in a Recycled Water Use License issued by the District and in compliance with all applicable regulatory agency requirements.

D. **Contra Costa County Environmental Management Department** (Contra Costa County EMD) - This agency is the local health protection agency for most areas of Contra Costa County.

E. **Cross Connection** - Any physical connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as safe, wholesome and potable for human consumption. This includes direct piping between the two systems, regardless of the presence of valves, backflow prevention devices, or other appurtenances.

F. **Customer** - A person furnished recycled water service by the District.

G. **Customer Facilities** - Designates or relates to facilities owned or operated by a customer, downstream of the water meter, and typically consists of distribution and irrigation lines and appurtenances such as pumps, control valves and sprinklers. All customer system/facilities are the property of the user, and are to be maintained and operated by the user and/or their employees.

H. **Development** - (1) The placement or erection of any structure or other improvements and all alterations of the land and construction incident thereto for the purpose of changing the type, density, or intensity of use of land, which use(s) will (2) require one or more new potable water connections.

- I. **District** - The Dublin San Ramon Services District
- J. **Greenbelt Areas** - A greenbelt area includes, but is not limited to, golf courses, cemeteries, parks and landscaping.
- K. **On-Site Supervisor** - The customer shall designate an On-site Supervisor to provide liaison with the District. This person shall be available to the District at all times, shall have the authority to carry out any requirements of the District, and shall be responsible for the installation, operation and maintenance of the recycled and potable water systems and also prevention of potential hazards.
- L. **Point of Connection** - This is the point where the customer's system ties to the District's system. This is usually at the outlet of the water meter.
- M. **Potable Water** - Water of a quality suitable for human consumption as defined in the State Safe Drinking Water Act, Health & Safety Code, Section 116275, Subdivision (e), as it may be amended from time to time.
- N. **Potable Water Customer** - A person furnished potable water service by the District.
- O. **Recycled Water** - Water produced by further treatment of secondary effluent and of a quality suitable for unrestricted irrigation as defined in Title 22, California Code of Regulations, Division 4, Environmental Health, Chapter 3, Reclamation Criteria, as it may be amended from time to time.
- P. **Recycled Water Use License** - A license issued by the District to the customer, which outlines monitoring, self-inspection, reporting, and site-specific requirements. This license is required by the California Regional Water Quality Control Board. This license allows the customer to use recycled water in accordance with District Standards, Codes, Ordinances, policies and these guidelines and all applicable regulatory agency requirements.

Q. **Secondary Effluent** - Wastewater treated that meets the requirements of the District NPDES discharge permit governing wastewater disposal, as it may be amended from time to time.

R. **State of California Department of Health Services** (State DHS) – Refers to the State of California Department of Health Services, Drinking Water Field Operations Branch – San Francisco District.

S. **Water** - All water delivered to a customer by the District.

SECTION 5. FINDINGS IN CONFORMANCE WITH CEQA

This Board hereby finds, in its independent judgment, that the environmental impacts of the adoption of this Ordinance are adequately examined and described in the Final Environmental Impact Report for the City of Dublin Schaefer Ranch General Plan Amendment, the Contra Costa County Final Environmental Impact Report for Dougherty Valley Specific Plan and General Plan Amendment, and the DSRSD·EBMUD Recycled Water Authority Final Environmental Impact Report for the San Ramon Valley Recycled Water Program.

SECTION 6. EFFECTIVE DATE

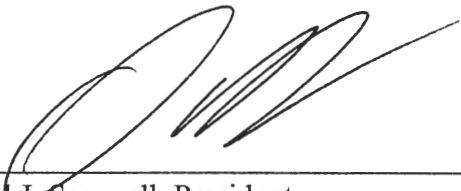
This Ordinance shall be effective thirty (30) days after its adoption.

SECTION 7. REPEALER

Ordinance No. 280, entitled “Ordinance Implementing the Dublin San Ramon Services District Recycled Water Policy (Resolution No. 42-92), Establishing a Recycled Water Use Zone Corresponding to the Potable Water Service Area of the District, and Repealing Ordinance No. 276,” adopted April 7, 1998, is hereby repealed.

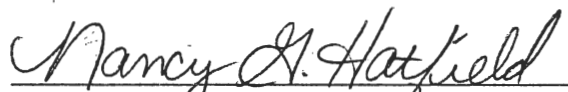
ADOPTED by the Board of Directors of the Dublin San Ramon Services District at its regular meeting held on the 6th day of April, 2004, passed by the following vote:

AYES: 5 – Directors Jeffrey G. Hansen, Thomas W. Ford, G.T. (Tom) McCormick,
Richard W. Rose, Daniel J. Scannell
NOES: 0
ABSENT: 0



Daniel J. Scannell, President

ATTEST:



Nancy G. Hatfield, District Secretary