

**ORDINANCE NO. 101**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE TWENTYNINE PALMS WATER DISTRICT  
AMENDING THE RULES AND REGULATIONS FOR THE  
APPLICATION OF RETAIL WATER SERVICE AND ADMINISTRATIVE  
PENALTIES FOR VIOLATION OF THE RULES AND REGULATIONS**

**WHEREAS**, on November 8, 2016, California voters approved Proposition 64, titled the "Adult Use of Marijuana Act" (the "AUMA") and enacted a state statutory scheme regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical cannabis for use by adults twenty-one (21) years of age and older; and

**WHEREAS**, pursuant to the AUMA, the County of San Bernardino prohibited all commercial cannabis activity, including commercial grows, for medical or other purposes in the unincorporated areas of the county; and

**WHEREAS**, the District has received numerous reports regarding the operation of illegal commercial cannabis operations within the District's service area; and

**WHEREAS**, the California State Water Resources Control Board ("SWRCB") has expressed extreme concern regarding the use of water for cannabis cultivation and requires cannabis cultivators to obtain permits from regional water quality control boards regarding the discharge of cultivation-related waste into waters of the state, including groundwater, per the SWRCB's Cannabis General Order, available at [https://www.waterboards.ca.gov/centralvalley/water\\_issues/cannabis/general\\_order/#cannabisgenord](https://www.waterboards.ca.gov/centralvalley/water_issues/cannabis/general_order/#cannabisgenord); and

**WHEREAS**, the Board of Directors of the Twentynine Palms Water District has heretofore adopted Ordinance No. 87 setting forth the Rules and Regulations for the Provision of Water Service and Other District Services ("Rules and Regulations"); and

**WHEREAS**, pursuant to Government Code Section 53069.4, the District may, by ordinance, make the violation of any ordinance enacted by its Board of Directors subject to a civil administrative fine or penalty; and

**WHEREAS**, the Board of Directors has determined it to be in the best interests of the inhabitants, landowners, and water consumers of the District to amend the application requirements and enforcement penalties in order to curtail the rise of illegal commercial cannabis operations using District water; and

**WHEREAS**, in accordance with Water Code Section 31027, at least 5 days before the public meeting where this Ordinance was considered, a summary of this Ordinance was published in the Desert Trail, a newspaper of general circulation, and a certified copy of the full text of this Ordinance was posted in the District offices located at 72401 Hatch Road, Twentynine Palms, California.

**NOW, THEREFORE, BE IT ORDAINED**, by the Board of Directors of the Twentynine Palms Water District as follows:

1. **Ordinance 87, Section 5(B). Application** shall be deleted in its entirety and replaced with the following:

“B. Application

Upon paying the established opening fee, and any other applicable fees and charges, each applicant for water service will be required to sign a form provided by the District setting forth the following information:

1. The date and place of application.
2. The location of the premises to be served, including a legal description.
3. The proposed class and size of service.
4. A signed, written agreement to abide by all of the Rules and Regulations of the District.
5. Whether the applicant is an owner, tenant, or agent for the premises.
6. Copy of the City or County Building Permit and all other county and regulatory permits for the premises to be served, including any required State Water Resources Control Board permits (*Only required for applications requesting the installation of new meters*).
7. Such other information as the District may reasonably request.

If the District determines that the application is incomplete, the District may provide notice to the applicant requesting the missing information. Such requests may include submissions of additional information required by changes to the application requirements that occurred after the submission of the application. Additionally, the District reserves the right to deny an application if the applicant fails to provide the necessary information outlined in this Section. Upon denial of an application, an applicant may appeal the denial via the process outlined in Section 33(D), as amended by this Ordinance.

Additionally, the District may discontinue services if an application is later discovered to be erroneous or incomplete, and the errors are not cured by the property owner after notice deemed adequate by the District. All applicants will be advised of this provision when the District is contacted for service.”

2. **Ordinance 87, Section 33. Penalty for Violation** shall be deleted in its entirety and replaced with the following:

“SECTION 33. PENALTIES FOR VIOLATION/APPEAL PROCESS

A. Unlawful Water Use. It is unlawful for any person to connect and otherwise extract water from the District’s water supply and distribution system other than

as stated in the District's Rules and Regulations. Any person violating this provision may be subject to penalties provided by law, ordinance and/or the District's Rules and Regulations.

B. Notice of Violation

Any person found to be violating any provision of these Rules and Regulations of the District may be served by the District with a written correction notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correct thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Such notice shall be considered properly served by the District if it is sent to the address of record on file at the District.

Each customer, including any person present at the water service address, acting as the agent of the customer, or working on such site, may be held strictly responsible under the provisions of this or any other ordinance, resolution, rule or regulation of the District for their own acts and for any and all authorized acts of their representatives or employees.

Upon being notified by the District or authorized representative of any violations of these Rules and Regulations, the person having responsibility for the property, facility or work causing the violation shall immediately cease and desist from such violation and shall cause the commencement of such measures and procedures as may be necessary to correct the violation within the time specified by the District.

C. Imposition of Penalty.

1. Upon the expiration of the time limit for correction, if the offender fails to immediately cease all violations, the offender's service shall be discontinued and water shall not be supplied to such customer until the customer has complied with the rule or regulation which was violated. In the event that the offender cannot comply with said rule or regulation, water service may be restored if the District is satisfied that in the future, the offender will comply with all the Rule and Regulations established by the District. However, the District reserves the right to impose an administrative fine for any offender's failure to comply with these Rules and Regulations.
2. If the District elects to impose an administrative fine on the offender who has violated any provision of these Rules and Regulations, the District shall cause a written notice of the violation to be sent to the offender. The notice shall provide, in sufficient detail, the violation(s), the amount of the penalty being imposed, and the date or times by which the penalty shall be paid to the District. Service of any notice required under this Section shall be made by personal service in the same manner as a summons in a

civil action; or registered United States mail, which service shall be completed at the time of deposit into the United States mail.

An offender may appeal the imposition of an administrative fine via the process outlined in Section 33(D), as amended by this Ordinance. Fines may be collected by the District by any lawful means, including but not limited to adding the amount of such fines to the offenders water bill(s).

3. Fine Schedule. Pursuant to California Government Code section 53069.4, the District may charge the offender an administrative penalty of up to:
  - i. \$1,000 for the first violation:
  - ii. \$2,500 for a second violation within a one-year period; and
  - iii. \$5,000 for each violation thereafter within a one-year period.

D. Appeal Process.

1. All appeals shall be submitted, in writing, to the District's General Manager within thirty (30) calendar days of the denial of the application or the date of the notice of the imposition of the penalty.
2. The District General Manager, or his/her designee, shall review the appeal and any related information provided by the appellant and, if necessary, cause an investigation and report to be made concerning the imposition of any penalty. The District General Manager, or his/her designee, shall have twenty (20) calendar days from the submission of the appeal to render a decision on whether to grant the appeal and mail notice thereof to the appellant. If the General Manager, or his/her designee, grants the appeal and determines that any denial or penalty was imposed in error or should be reduced, within fifteen (15) calendar days of such determination, the District General Manager, or his/her designee, shall either: accept the application for water service or refund the penalty or any portion thereof, if paid by the appellant, for which the appeal was granted, including any additional penalties or interest related thereto and give written notice thereof or determine and correct the amount of the penalty for the offender, including any additional penalties or interest related thereto and give written notice thereof.
3. The decision of the District General Manager, or his/her designee, may be appealed by the appellant to the Board. Such appeal must be submitted in writing and filed with the District within fifteen (15) calendar days of the date of decision of the General Manager, or his/her designee. The Board shall conduct a hearing on such appeal at its next regularly scheduled Board meeting; provided, however, the Board shall have received the notice of appeal at least fifteen (15) calendar days prior to such meeting. If

the appeal is not submitted within at least fifteen (15) calendar days prior to a regularly scheduled Board meeting, then the hearing shall be held at the next following regularly scheduled Board meeting. A notice of the hearing shall be mailed to the offender at least ten (10) calendar days before the date fixed for the hearing. The Board shall review the decision of the District General Manager, or his/her designee. The determination of the Board shall be conclusive and constitute a final order. Notice of the determination by the Board shall be mailed to the appellant within ten (10) calendar days of such determination.

If the appeal is granted in whole or in part, within ten (10) calendar days from the date of the mailing of the notice of determination by the Board, the District shall either refund the penalty or any portion thereof, if paid by the appellant, including any other penalties or interest related thereto for which the appeal was granted or determine and impose the correct amount of the penalty for the appellant, including any other penalties or interest related thereto.

If the appeal is denied or granted in part, the appellant shall have twenty (20) calendar days from the date of the mailing of the notice of determination by the Board to pay the penalty, and any other penalties and interest fixed by the Board.

Until the conclusion of the appeal process, all provisions and decisions under appeal shall remain in full force and effect until the conclusion of the appeal process.

4. If an appellant subject to the imposition of a penalty pursuant to these Rules and Regulations, after notice has been provided as set forth herein, fails to pay the penalty when due, the appellant shall become liable to the District for interest at the rate of one percent (1%) per month on the delinquent penalty(ies) amount.
- E. Continued Violations. Each person who violates any provision of these Rules and Regulations may be guilty of a separate offense for each and every day during any portion of which such violation is committed, continued or permitted by such person and may be punished accordingly.”
3. **Balance of the Rules and Regulations.** Except as specifically set forth in this Ordinance, the balance of the Rules and Regulations as established by Ordinance No. 87, and any subsequent Ordinances, shall remain in full force and effect.
  4. **Severability.** If any provision, paragraph, word, or section of this Ordinance is invalidated, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue un full force and effect. The Board hereby declares that it

would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

5. **Conflict.** All other ordinances, resolutions, or administrative actions, and parts thereof, inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

6. **Effectiveness.** The President of the Board of Directors shall sign this Ordinance and the Secretary of the Board of Directors shall attest thereto, and this Ordinance shall be in full force and effect immediately upon adoption. Within 15 days after adoption of this Ordinance, a summary of the Ordinance shall be published with the names of those Directors voting for and against this Ordinance and a certified copy of the full text of this Ordinance shall be posted in the District offices.

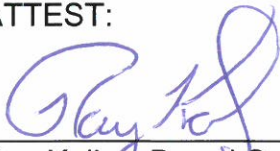
**PASSED, APPROVED, AND ADOPTED** this 25<sup>th</sup> day of August 2021 by the following vote:

Ayes:	Directors Coghill, Horn, and Giannini
Noes:	None
Abstain:	None
Absent:	Directors Arthur and Leazer



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Carol Giannini, President  
Board of Directors

ATTEST:



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Ray Kolisz, Board Secretary  
Twentynine Palms Water District

