

ORDINANCE NO. 87.3

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE TWENTYNINE PALMS WATER DISTRICT AMENDING THE RULES AND REGULATIONS FOR THE PROVISION OF WATER SERVICE

WHEREAS, the Board of Directors of the Twentynine Palms Water District 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, the California Code of Regulations, Title 24, sets forth, and is referred to as, the California Building Standards Code. The part of the California Building Standards Code which includes the California Fire Code was published by the Building Standards Commission in June 2010 and became effective January 1, 2011. The applicable governmental agency is required to enforce the 2010 Edition of the California Building Standards Code as of January 1, 2011 for all new building construction. The Building Standards Code includes other specific Codes such as the Electrical Code and the Fire Code. The 2010 Edition of the Building Standards Code includes a new code referred to as the Residential Code. The 2010 California Fire Code, as adopted by the State, requires that all new construction, whether residential or non-residential, be equipped with fire sprinklers.

WHEREAS, the Government Code confers express statutory immunity onto a public agency that provides water service, such as the District, from liability for personal injury or property damage resulting from failure to provide fire protection services. Therefore, the District desires to amend its Rules and Regulations in order to provide additional and new notifications and information regarding the District’s immunity from liability for injury or damage which may result from reduced flow or interruption in service, including but not limited to, damage resulting from the presence or absence of water in a residential fire sprinkler system.

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.

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

1. **No Liability Regarding Fire Sprinkler Systems** Section 4. DESCRIPTION OF SERVICE, Section B. Supply of the Rules and Regulations is hereby amended, in its entirety, as follows:

B. Supply The District will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to its customers and to avoid any shortage or interruption in delivery. However, the District cannot, and does not, guarantee the quantity or pressure of the water it provides and shall not be liable for damage resulting from same. California law provides that the District is immune from liability for personal injury or property damage which may result from the presence or absence of water for the extinguishment of a fire or for any other purpose including, but not limited to, the presence or absence of water in a fire sprinkler system located on or about any property or structure. Such immunity shall apply regardless of whether any absence of water is the result of a malfunction in any system or from the termination of water service due to a delinquent water bill.

2. **No Liability Regarding Fire Protection** Section 11. WATER FOR FIRE PROTECTION, Section F. Pressure and Supply of the Rules and Regulations is hereby amended, in its entirety, as follows:

F. Pressure and Supply The District assumes no responsibility for loss or damage due to the quantity or pressure of water delivered and only agrees to furnish such quantity and pressure as is available in its distribution system. The service is subject to shut downs and variations required by the operation of the District's distribution system. California law provides that the District is immune from liability for personal injury or property damage which may result from the presence or absence of water for the extinguishment of a fire or for any other purpose including, but not limited to, the presence or absence of water in a fire sprinkler system located on or about any property or structure. Such immunity shall apply regardless of whether any absence of water is the result of a malfunction in any system or from the termination of water service due to a delinquent water bill.

Section 11. WATER FOR FIRE PROTECTION, Section I. Fire Sprinkler Systems is hereby added to the Rules and Regulations as follows:

I. Fire Sprinkler Systems The customer is responsible for any fire sprinkler system on the customer's property or premises including, but not limited to, operations, maintenance, and standard inspection to ensure that any such system functions properly. Pursuant to the District's immunity from liability for fire protection as explained in these Rules and Regulations, the customer acknowledges that there is the potential for hazardous conditions which may be created by potentially having fire protection services discontinued as a result of service interruption or termination and that any such injury or damage is the responsibility of the customer and not the District.

Section 11. WATER FOR FIRE PROTECTION, Section J. Indemnification is hereby added to the Rules and Regulations as follows:

J. Indemnification Customers shall indemnify, defend, and hold harmless the District from and against any claims, damages or liability for any personal injury or property damage which may result from the presence or absence of water for the extinguishment of a fire or for any other purpose.

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 in 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, along with the names of those Directors voting for and against this Ordinance, shall be posted in the District offices.

PASSED, APPROVED AND ADOPTED this 26th day of October 2011, by the Board of Directors of the Twentynine Palms Water District.

Ayes: Directors Bourikas, Chambers, Cisneros, Moore and Shinaver

Noes: None

Philip C. Cisneros, President
Board of Directors

Attest:

Mike Wright, Board Secretary
Twentynine Palms Water District