

ORDINANCE NO. 01-2018

**AN ORDINANCE OF THE SAN MIGUEL COMMUNITY SERVICES DISTRICT
ALLOWING RESIDENTS TO CONSERVE WATER BY EITHER
IMPLEMENTING WATER-EFFICIENT LANDSCAPING OR ELIMINATING
THE WATERING OF EXISTING LANDSCAPING**

WHEREAS, on January 20, 2000, the County of San Luis Obispo Local Agency Formation Commission formed the San Miguel Community Services District (“District”) subject to the Community Services District Law, Government Code section 61000. The initial powers of the District included fire, water, sewer, and lighting.

WHEREAS, California Constitution, article X, section 2, and California Water Code section 100, provide that because of conditions prevailing in the state of California (the “State”), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code section 375, the District is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the District; and

WHEREAS, on April 7, 2017, Governor Brown lifted the state of emergency related to the then ongoing drought that prohibited homeowners’ associations from fining owners for a failure to maintain the vegetation or grass areas and prohibited any prohibitions against replacing such areas with low water-using plants or artificial turf; and

WHEREAS, homeowners’ associations involve a series of agreements referred to as the Covenants, Conditions, & Restrictions (“CC&Rs”) applicable to the land within the development. Section 4205 of the Civil Code explicitly renders that agreement subordinate to local laws; and

WHEREAS, residential homeowners’ associations are prohibited by Section 4735 of the Civil Code from enforcing any CC&Rs that have the effect of restricting

compliance with any limitation on the use of water adopted pursuant to Section 375 of the Water Code; and

WHEREAS, on May 31, 2018, Governor Brown signed into law both Senate Bill 606 and Assembly Bill 1668, imposing significant future reductions in water use by the citizens of the State, with specific regulation regarding rural water services, such the District, to be proposed by January 1, 2020; and

WHEREAS, because of the prevailing conditions in the State and the declared policy of the State, the District hereby finds and determines that it is necessary and appropriate for the District to promote water conservation to reduce the quantity of water used by consumers within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, the District Board of Directors hereby finds and determines that it is desirable to codify the rules and regulations governing its actions, and the actions of persons using and consuming water within the District, particularly during declared water shortages and water shortage emergencies, to protect the general welfare and the District's water supplies, and to reduce water consumption in accordance with the declared policies and laws of the State.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN MIGUEL COMMUNITY SERVICES DISTRICT DOES ORDAIN AS FOLLOWS:

Section 1. Water Conservation Findings

The District Board of Directors finds and determines the following:

- A. A reliable water supply is important to the livelihood of the District.
- B. To prevent waste and ensure reasonable use of water supplied by the District and to protect and promote the public health, safety, and welfare, it is necessary and desirable to enact an ordinance to promote certain conservation options within the District.
- C. Reducing water usage through water conservation measures protects and promotes the public health, safety, and welfare, by conserving a vital resource that is subject to ever-increasing demands.
- D. California has recently experienced a historic drought which demonstrated the importance of water conservation within the State.
- E. The District is subject to ongoing litigation over ground water rights within the Paso Robles Basin, calling into question the District's right to pump water.

- F. In 2014, the State adopted its California Water Action Plan to promote sustainable water management practices.
- G. In 2018, the State adopted Assembly Bill 1668 and Senate Bill 606, both of which will result in the dramatic curtailment of indoor water use in California.
- H. In light of these action, the District adopts this water conservation ordinance to protect the health, safety, and welfare of the community.

Section 2. Exterior Landscaping

- A. It is the policy of the District to promote water conservation through promoting exterior landscape choices, whether or not there is an ongoing drought, or a declared state of emergency caused by a drought. When replacing existing vegetation or lawns, the following choices shall be permitted by this Ordinance:
 - a. The use of low water-plants in lieu of traditional landscaping. Such installations may include the use of indigenous plants native to the San Luis Obispo and Monterey County areas.
 - b. The use of artificial turf products to replace existing grassy areas.
 - c. A combination of (a) and (b).
- B. Owners may choose to conserve water by not watering their exterior landscaping, even if the result of the conservation is the browning or death of plants within the landscaping.
- C. During times of a declared drought emergency, the installation of new grassy areas or high water-use plants shall be prohibited.

Section 3. Effect on Homeowners Associations with The District

- A. The District has adopted this Ordinance pursuant to section 375 of the California Water Code. It is the intent of the District for this Ordinance to ensure the protections of Civil Code section 4735 with respect to any homeowners' associations governing documents.
- B. To the extent homeowners' associations' governing documents do not interfere with compliance with this Ordinance, the District does not intend to interfere with those architectural or landscaping guidelines.