

McKinney Water District | El Dorado and Placer Counties

ORDINANCE 2021-2

AN ORDINANCE OF THE MCKINNEY WATER DISTRICT BOARD OF DIRECTORS PROHIBITING THE THEFT OF WATER AND TAMPERING WITH DISTRICT FACILITIES THE MCKINNEY WATER DISTRICT "DOES ORDAIN THE FOLLOWING"

SECTION 1 – PURPOSE

The purpose of this Ordinance is to protect the public water supply system from theft and tampering with district facilities.

SECTION 2– RESPONSIBILITY

The District is authorized and empowered to acquire, own, operate, maintain, construct, finance, improve and extend a public water system.

SECTION 3 – TAMPERING AND THEFT OF WATER SUPPLY

3.1. Water Theft – For purposes of this Ordinance, "water theft" means and includes all of the following:

- a) The use, diversion, receipt or taking of District water by any means from any public fire hydrant, blow-off valve, water main, water service lateral or other District facility or connection to a District facility, to which a District authorized metering device has not been installed or has been removed by the District; and
- b) The use, diversion, receipt or taking of District water by any means without paying the full and lawful District charges for such water, or by tampering with District property or facilities, such as by removing a lock or plug that has been placed on a customer's service or meter, or unauthorized use, or by tampering with a service connection to any District facilities and any public fire hydrant.

3.2 Unauthorized Use – For the purposes of this Ordinance, "unauthorized use" includes the use of water from a stationary service connection where lawful water service has been discontinued or from a public fire hydrant to supply water outside of the District service area, regardless of whether payment is provided to the District for the water drawn from the public fire hydrant, or any use of the hydrant meter in violation of the terms and conditions of the hydrant meter permit.

3.3 Tampering – Tampering with District equipment or facilities is considered grounds for discontinuance of utility service. "Tampering" shall include, but not be limited to:

- a) Opening valves at the curb or meters that have been turned off by District personnel
- b) Breaking, picking or damaging cut-off locks.
- c) Bypassing meters in any manner
- d) Taking unmetered water from hydrants by anyone other than authorized official of a fire department, fire insurance company or District employee for any purpose other than firefighting, testing, or flushing of water mains and fire hydrants
- e) Use of sprinkler system water for any purpose other than fire protection

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- f) Removing, disabling or adjusting meter registers
- g) Connecting to or intentionally damaging water lines, valves or other appurtenances
- h) Moving meters or extending service without written permission of the District
- i) Any intentional act of defacement, destruction or vandalism to District property
- j) Any intentional blockage or obstruction of District property

3.4 Misdemeanor – Water theft and tampering are prohibited. Each act of water theft or tampering constitutes a misdemeanor under state law

3.5 Reportable Offense – If any person takes water from a fire hydrant without authorization or otherwise tampers with District Property, the District shall submit a record of the vehicle license plate number, available photographs and any other applicable information to the Placer or El Dorado County Sheriff's Department

3.6 Prosecution – The District may report any water theft to the appropriate prosecuting criminal agency and request prosecution of said activity pursuant to the Penal Code.

SECTION 4 – ADMINISTRATIVE PENALTIES.

4.1 – Remedies – In addition to pursuing criminal penalties, the District, upon discovering water theft or tampering with District property, may also pursue the following remedies available.

- a) Require the immediate removal of any equipment, connections or tools used to accomplish the water theft of District property.
- b) Penalties for tampering with and or damaging a water service or fire hydrant will be assessed as follows:
 - I. First Violation - \$250.00
 - II. Second Violation - \$500.00 within a 12-month period, and
 - III. Third and Subsequent - \$1000.00 within a 12-month period.
- c) The customer/individual will be charged all costs incurred by the District associated with reporting the incident including but not limited to labor, materials and equipment used to report the incident and all costs incurred by the District to replace or repair any District facilities or other items that were tampered with, damaged or removed for the purpose of receiving water without paying the full lawful charge. These costs are subject to an overhead and administrative charge of fifteen percent (15%). No further service shall be allowed at the address until all fees and charges are paid in full.

SECTION 5 – OTHER REMEDIES

- k) **5.1 Enforcement Action** – In addition to any other remedies provided in this Ordinance or available under applicable law, the District may alternatively seek injunctive relief in Placer or El Dorado County Superior Court or take enforcement action. All remedies provided herein shall be cumulative and not exclusive. If a customer or any other person turns on water service without District authorization, tampers with any locked water meter, tampers with a service connection or District Facilities, bypasses a

meter, makes an unauthorized connection to District facilities without District permission, or commits water theft, the District may:

- a) Turn off the water service and install a lock.
- b) Estimate, if necessary, the water taken and charge the customer, offender or water recipient for the water taken from the District facility, plus any other amount reflective of the District's costs for such estimate and relate activities:
- c) Charge the customer, offender, or water recipient for the damage to the District locks, meter or other property;
- d) Remove the meter and plug service
- e) Terminate and remove the service from its connection to the water main.
- f) Charge a deposit reflective of the District cost to reestablish service.
- g) Require the return of any District hydrant meter
- h) Prohibit any person who has committed three violations of this Ordinance within a twelve-month period from obtaining a District hydrant meter permit for a period of three (3) years from the date of the third violation.

5.2 Other Costs – Any violation that causes the District to repair, restore, replace, or relocate a District owned facility will be billed on a time and material basis plus an overhead and administrative charge of fifteen percent (15%). Nonpayment of such amounts may result in termination of service.

SECTION 6 – NOTICE

6.1 Notice of Violation - A Notice of Violation shall be mailed or delivered to the customer, customer's agent, offender or water recipient when evidence suggests the possibility of theft of service at the customer's property.

6.2 Order to Cease. - If the violation does not constitute an immediate threat to public safety or the integrity of the District's water system, the customer, offender or water recipient shall be ordered to immediately cease the unlawful practice.

6.3 Delivery of Notice of Violation – A Notice of Violation shall be mailed or delivered to the customer, offender or water recipient after water service is cut off for the following:

- a) In the opinion of the District's Staff, theft of service is clearly evident on the customer's property or property where the offense occurred and immediate action is necessary;
- b) In the opinion of the District's Staff, there is an immediate threat to public health or safety.

6.4 Invoicing. - The district shall calculate the amount of damages and penalties to be imposed, and shall send a bill to the customer, or if the offender is not the customer of record, an invoice from payment of the damages and penalties may be sent to the offender or water user or recipient.

6.5 Fees and charges. - All costs relating to the district processing and handling of the water theft, investigation and enforcement thereof and potential charges for reestablishment of service, shall be borne by the party having responsibility for the water account at the time of the water theft, or if there is a customer of record, by the offender, water user or recipient. These charges include, but not limited to, investigation and enforcement costs, service call charges, water charges, turn off of service, charges for damage to district facilities and equipment, and plug and or termination fees. Before the meter will be replaced and service reestablished, the party requesting service, if in anyway involved or related to, or associated with parties involved in the water theft, shall deposit an amount reflective of the district's cost, plus the standard equipment reinstallation fee, in addition to any service call charges, and any amount representing any damage to the district property.

6.6 Other Costs. - All charges relating to the District's processing and handling of the water theft involving the taking of water from a public fire hydrant shall be borne by the offender or water user recipient, including, but not limited to, the cost of any water, charges for any damage to District facilities and equipment, and costs of investigation and enforcement.

6.7 Appeals Process. - Any person (an "appellant") who wishes to appeal the imposition of an administrative penalty imposed by the District pursuant to this Ordinance, or who wishes to appeal the imposition of a three-year prohibition on a hydrant meter permit shall comply with the following procedures.

- a) The appellant shall submit an appeal request to District Staff no later than fifteen (15) calendar days from the date of the bill or invoice sent to the customer or offender.
- a) A response to the appeal request shall be provided by District Staff, or his or her designee, within forty five (45) calendar days from the receipt of the appeal request form. The appeal will be presented to the Board of Directors. The appellant may request to provide evidence in writing or in person in support of his or her appeal. The decision of the Board of Directors shall be final.
- b) Within ten (10) business days after the denial of the appeal is deemed final, the appellant shall pay any disputed penalties imposed by the District.

* * * *

I hereby certify that the foregoing is a full, true, and correct copy of an Ordinance duly adopted and passed by the Board of Directors of the McKinney Water District, Placer and El Dorado Counties, California at a meeting held on the 28TH day of May 2021 by the following vote;

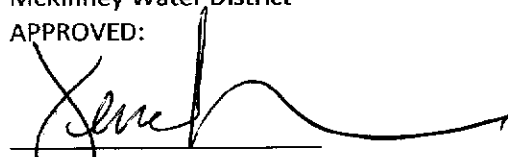
AYES: Directors, Swartfager, Cotner, Dangler, Noack, Arcidiacono


NOES: None

ABSENT: None

McKinney Water District

APPROVED:


Jerry Swartfager
President


Karla Gunter
Secretary/Treasurer

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