

MARANA ORDINANCE NO. 2022.012

RELATING TO UTILITIES; AMENDING TOWN CODE TITLE 14 (UTILITIES) BY ADDING NEW CHAPTER 14-11 (NON-POTABLE WATER SERVICE WITHIN CORTARO-MARANA IRRIGATION DISTRICT BOUNDARIES)

WHEREAS Marana Town Code Title 14 provides that water and/or wastewater service may only be provided pursuant to application to the Town; and

WHEREAS the Town's Water Director is responsible for day-to-day management of the Town's water and wastewater utilities and the enforcement of Title 14; and

WHEREAS the Town of Marana owns and operates a potable water system as a designated provider under the state of Arizona assured water supply program; and

WHEREAS the assured water supply program requires the use of renewable water resources and replenishment of non-renewable groundwater; and

WHEREAS the Cortaro-Marana Irrigation District owns and operates a non-potable water system, utilizing service area rights, grandfathered groundwater rights, effluent, and/or surface water related rights, within its district boundaries; and

WHEREAS use of non-potable water for landscaping can be more cost-effective in the long-run, and reduces demand on the Town's potable water system; and

WHEREAS the Town Council finds that this ordinance is in the best interests of the Town and its residents, businesses, and water utility.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. Marana Town Code Title 14 (Utilities) is hereby amended by adding new Chapter 14-11 (Non-potable water service within Cortaro-Marana Irrigation District boundaries), as follows:

CHAPTER 14-11. NON-POTABLE WATER SERVICE WITHIN CORTARO-MARANA IRRIGATION DISTRICT BOUNDARIES

14-11-1 Background

The use of non-potable water for landscaping reduces demands on the potable water system and, where operated using water supplies not otherwise available to the town's water department, maximizes renewable resources in the town's water resource portfolio. The long-term best interests of the town and its residents,

businesses, and water utility require evaluation and consideration of the use of non-potable water for each proposed project where non-potable water facilities are available or can reasonably be made available.

14-11-2 Applicability and definitions

- A. Geographic limitation; CMID defined. The requirements of this chapter apply only within the district boundaries of the Cortaro-Marana Irrigation District (CMID).
- B. Proposed project defined. For purposes of this chapter, the term “proposed project” means a proposed public project or a proposed industrial, commercial, or residential development, including all proposed, planned, or required landscaping, park, and/or recreational features of the proposed public project or proposed industrial, commercial or residential development.
- C. CMID waiver. The requirements of this chapter shall not apply to any proposed project where CMID, in its sole discretion, has provided the applicant or the town with a signed, written waiver stating that CMID is unable to feasibly provide non-potable service to the proposed project.
- D. Coordination of responsibilities; MOU defined. The Town’s water director is authorized and directed to enter into a memorandum of understanding (MOU) with CMID and/or its managing agent, the Cortaro Water Users’ Association, to ensure consistency in the provision of service to residents and customers and to coordinate compliance with town code and state laws and regulations, including, for example, planning factors used to calculate proposed water use, conservation requirements, and Tucson active management area management plan goals. The MOU shall be reviewed annually and updated as needed.

14-11-3 Investigation and consultation

- A. Before submission to the town of any subdivision plat or development plan for a proposed project, an applicant shall prepare and provide a written report that includes, at a minimum, all of the following:
 - 1. The quantity of water the proposed project will use each year for uses not requiring potable water, including landscaping, manufacturing, and other similar purposes, using planning factors for intended water use consistent with those found in the MOU.
 - 2. The location and availability of potential and existing non-potable sources of water on and within one mile of the site of the proposed project, including without limitation all of the following:
 - a. The existing non-potable water system within the CMID boundaries.
 - b. Existing and historic wells that could be used or rehabilitated for non-potable water use.
 - c. Existing and historic irrigation canals, laterals, and other irrigation water delivery infrastructure.

3. In cases where the use of non-potable is not otherwise required as a condition of rezoning (see subparagraph 14-11-4 A. 1 below) or by council determination of environmental impacts (see subparagraph 14-11-4 A. 3 below), the applicant's analysis and supporting documentation of the long-term cost savings of using non-potable water versus the initial cost of installing the necessary non-potable infrastructure (see subparagraph 14-11-4 A. 2 below).
 4. Dates and times and summaries of consultations with CMID's manager or authorized management representative regarding the feasibility of using non-potable water sources for uses not requiring potable water.
- B. Before the town's final approval of a proposed project, the applicant shall provide to the town an updated report of the estimated use of non-potable water to account for any changes to the proposed project since the submission of the original report.
 - C. The original report and the updated report shall be reviewed and approved by CMID and by the water director or designee.

14-11-4 Non-potable water service

- A. The owner or developer shall install all infrastructure necessary to serve a proposed project with non-potable water service in any of the following circumstances:
 1. Where connection to the non-potable water system is required as a condition of rezoning.
 2. Where the water director determines that the long-term cost savings of using non-potable water exceeds the initial cost of installing the necessary non-potable infrastructure.
 - a. In making this determination, the water director shall use the equation $A \leq B - C$
 - b. "A" in the equation is a water director-approved registered civil engineer's estimate of the cost to install all infrastructure necessary to serve a proposed project with non-potable water service.
 - c. "B" in the equation is a water director-approved registered civil engineer's estimate of the cost to use potable water to serve the project, including all of the following:
 - i. All meter fees, connection fees, development impact fees, and other fees and costs required to serve the project with potable water.
 - ii. The cost of the quantity of potable water needed to serve the entire built-out project for 20 years.
 - d. "C" in the equation is a water director-approved registered civil engineer's estimate of the cost to use non-potable water to serve the project, including all of the following:

- i. All meter fees, connection fees, development impact fees, and other fees and costs required to serve the project with non-potable water.
 - ii. The cost of the quantity of non-potable water needed to serve the entire built-out project for 20 years.
 3. Where the town council determines that the use of non-potable water is necessary to offset the environmental impacts or burdens associated with a project.
- B. The water director shall promptly send written notice of a determination under subsection A. 2 above (requiring or not requiring the owner or developer to install all infrastructure necessary to serve a proposed project with non-potable water service) to all of the parties set forth in subparagraphs 14-11-5 A. 1 through 3 below.

14-11-5 Appeal

- A. A determination under subsection 14-11-4 A. 2 above to require or not to require the owner or developer to install all infrastructure necessary to serve a proposed project with non-potable water service may be appealed by any of the following parties to the board of adjustment within 30 days after the date of the water director's notice of determination:
 1. The CMID manager.
 2. The owner or developer.
 3. The mayor or a member of the town council.
 4. Any other aggrieved party.
- B. The board of adjustment's decision may be appealed as provided by law.

SECTION 2. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. This ordinance is effective on the 31st day after its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 16th day of August, 2022.

Jan Post For
Mayor Ed Honea

ATTEST:

[Signature]
David Udall, Interim Town Clerk

APPROVED AS TO FORM:

[Signature] For
Jane Fairall, Town Attorney

