



Council Agenda Report

To: Mayor Wagner and the Honorable Members of the City Council

Prepared by: Heather Glaser, City Clerk

Approved by: Reva Feldman, City Manager

Date prepared: March 12, 2019 Meeting date: March 25, 2019

Subject: Second Reading and Adoption of Ordinance No. 446

RECOMMENDED ACTION: Conduct second reading, unless waived, and adopt Ordinance No. 446 determining the project is categorically exempt from the California Environmental Quality Act and adding Chapter 13.60 (Recycled Water Requirements) to Title 13 of the Malibu Municipal Code and amending Section 1.10.040 of Chapter 1.10 of Title 1 to reflect violations of Chapter 13.60.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: On March 11, 2019, the Council introduced on first reading Ordinance No. 446.

ATTACHMENT: Ordinance No. 446

ORDINANCE NO. 446

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADDING CHAPTER 13.60 (RECYCLED WATER REQUIREMENTS) TO TITLE 13 OF THE MALIBU MUNICIPAL CODE AND AMENDING SECTION 1.10.040 OF CHAPTER 1.10 OF TITLE 1 TO REFLECT VIOLATIONS OF CHAPTER 13.60

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Recitals.

A. The production and use of recycled water are regulated locally by the Los Angeles Regional Water Quality Control Board (RWQCB).

B. The use of recycled water is predicated on the City of Malibu's ability to adequately treat wastewater such that the recycled water (effluent) meets the requirements of Title 22, Division 4, Chapter 3 regulations of the California Code of Regulations. Title 22 was adopted by the State Water Resources Control Board Division of Drinking Water to ensure proper health protection and specify the treatment degree to match the intended applications.

C. In accordance with waste discharge requirements for water reclamation projects, the RWQCB requires regulation measures for facilities distributing recycled water.

SECTION 2. Chapter 13.60 of the Malibu Municipal Code is hereby added to the Malibu Municipal Code to read as follows:

Chapter 13.60

Recycled Water Requirements

- 13.60.010 Standards and Guidelines**
- 13.60.020 Recycled Water Use Permit**
- 13.60.030 Violations**

13.60.010 Standards and Guidelines

The city manager or her/his designee shall develop administrative standards and guidelines, including policies, procedures and technical details, to carry out the purposes of this chapter. The guidelines, including policies and procedures, shall be compiled in a separate document referred to as the Malibu Recycled Water Use Guidelines.

13.60.020 Recycled Water Use Permit

A. No individual or entity shall use recycled water except in compliance with all conditions of a valid Recycled Water Use Permit.

B. The city manager or her/his designee shall issue a Recycled Water Use Permit if the application complies with the following requirements: (1) plans, or evidence of an existing system, are submitted that demonstrate compliance with all applicable recycled water standards, guidelines, codes, ordinances, policies, and any special site-specific requirements that may be identified; and (2) a Recycled Water Use Permit for the property has not been revoked in the past 12 months, or the city manager or her/his designee has waived this requirement based on the applicant not being at fault for the revocation.

C. The recycled water use permit grants permission to use recycled water in conformance with the City's recycled water standards, guidelines, codes, ordinances, and policies, including any special site-specific requirements and conditions that may be identified. The recycled water use permit is not transferable between people or properties and is valid for a period not to exceed four (4) years.

D. The recycled water permit may be revoked at any time by the city manager or her/his designee for violation of the permit conditions or to protect the public health and safety.

E. If an applicant or permittee is aggrieved by any action to deny or revoke a permit by the city manager or her/his designee, such applicant or permittee shall have the right to appeal such decision to the City Council pursuant to the following appeal procedures:

1. An appeal shall be filed with the city clerk within ten (10) days following the date of action for which an appeal is made.

2. Appeals shall be addressed to the City Council on a form prescribed by the city. The appeal shall state the basis of the appeal. Only matters raised in the appeal shall be subject to review. Any matter not raised in the appeal shall not be subject to consideration by the City Council. Although the issues on appeal will be limited by the appeal, the City Council will accept new evidence (de novo appeal) and will not be bound by the previous record.

3. Appeals shall be accompanied by the filing fee as specified by the city. An appeal must identify the decision or portion of the decision being appealed and state the specific grounds for the appeal. An appellant shall have an additional ten (10) days following the date of filing the appeal to submit to the city clerk in writing, the specific grounds for the appeal. If the appellant does not submit grounds for the appeal within the time allowed by this section, the city clerk shall return the filing fee and the appeal shall be deemed to have been withdrawn.

4. In the event that an appeal results in a deadlock vote by the City Council, the decision by the city manager or her/his designee shall be final.

13.60.030 Violations

In addition to any criminal, civil or other legal remedy established by law that may be pursued to address violations of the Municipal Code, violations of the provisions of this chapter are subject to the administrative penalty provisions of Chapter 1.10.

SECTION 3. Section 1.10.040 of the Malibu Municipal Code is hereby amended to read as follows:

A. In addition to any criminal, civil or other legal remedy established by this code or other law that may be pursued to address violations of the municipal code, the violations described in the municipal code titles, chapters and sections listed below are subject to the administrative penalty procedures and other provisions of this chapter:

1. Chapter 5.04: Business Licenses Generally;
2. Chapter 5.20: Motion Pictures, Television and Photographic Productions;
3. Chapter 5.46: Prohibition of Price Gouging;
3. Chapter 8.04: Health Code Adopted;
4. Chapter 8.24: Noise;
5. Chapter 8.32: Solid Waste and Recyclable Materials;
6. Chapter 9.08: Offenses Against Property;
7. Chapter 9.20: Water Conservation;
8. Chapter 9.24: Ban on Expanded Polystyrene Food Packaging;
9. Chapter 9.28: Ban on Plastic Shopping Bags;
10. Chapter 9.38: Valet Attendant Safety Requirements;
11. Chapter 10.18: Oversize Vehicles;
12. Chapter 13.04: Storm Water Management and Discharge Control;
13. Chapter 13.60: Recycled Water Requirements
13. Chapter 15.04: Building Code Adopted;
14. Chapter 15.08: Electrical Code Adopted;
15. Chapter 15.12: Plumbing Code Adopted;
16. Chapter 15.16: Mechanical Code Adopted;
17. Title 17: Zoning.

B. Any person who violates or fails to comply with the provisions of this code set forth in subsection A of this section and who possesses no photo identification or refuses to identify him or herself to an enforcement officer, making it impossible to issue an administrative citation, shall be guilty of a misdemeanor.

SECTION 4. Environmental Review.

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of

CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 5. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 6. Certification.

The City Clerk shall certify the passage and adoption of this ordinance and enter it into the book of original ordinances.

SECTION 7. Effective Date.

This Ordinance shall take effect after its final adoption.

PASSED, APPROVED AND ADOPTED this 25th day of March 2019.

JEFFERSON WAGNER, Mayor

ATTEST:

HEATHER GLASER, City Clerk

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney