

ORDINANCE NO. 29

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MCCLLOUD COMMUNITY SERVICES DISTRICT
AMENDING ORDINANCE NO. 27 RULES AND REGULATIONS
RELATING TO WATER SERVICE**

The Board of Directors of the McCloud Community Services District ordains as follows.

SECTION 1 PURPOSE AND POLICY

The Board of Directors of the McCloud Community Services District finds and declares:

- 1.1. The purpose of this Ordinance is to amend the District's Rules and Regulations Relating to Water Service (Ordinance No. 27) to regulate potential water service to Beverage Manufacturers. As used in this section, the terms "Beverage Manufacturer" and "Beverage Bottling Use" have the meanings defined in section 2 of this Ordinance.
- 1.2. The District operates a small water system that serves limited beneficial uses. The District's water system was originally constructed around the 1880's and updated in the 1920's and 1950's. Since the closure of the lumber mill in 2002, the primary purpose of the District's water system has been to supply drinking water supplies to the McCloud community and limited irrigation uses around the community. The District water system has limited capacity to serve new water demands without the construction of significant new facilities that must be funded by new users.
- 1.3. The District has adequate source capacity for existing users, but conditions in the McCloud River watershed are subject to drought and climate change impacts that may require future users to preserve water supplies for the benefit of existing users and public trust resources.
- 1.4. There has been recurring interest by Beverage Manufacturers in receiving water service from the District. Beverage Manufacturers are not an existing class of District water system users. The new water system facilities required to serve Beverage Manufacturers and the potentially significant increased burden on District water supplies presented by Beverage Bottling Uses could have unknown impacts on the District's water system, finances, existing users, and public trust resources.
- 1.5. The District's current water system, rules for water service, and domestic use rates do not address Beverage Manufacturers and Beverage Bottling Uses. The District's current flat rate schedule for domestic uses was never intended to be applied to high-capacity users like Beverage Manufacturers.
- 1.6. Allowing high-capacity users like Beverage Manufacturers to receive District water service under the current flat rate schedule would pose an unreasonable danger to the District's water system, finances, and existing users, and would fail to ensure that the costs associated with serving Beverage Bottling Uses are borne only by

Beverage Manufacturers as required by Article XIII D, section 6, of the California Constitution.

- 1.7. The sale of water to users within the District for use within the District is declared to be the superior use of the District's limited water supplies. The sale of surplus water supplies for bottling and export outside the District is declared to be a subordinate use of the District's limited water supplies.
- 1.8. Beverage Manufacturers are a separate and distinct class of potential users of District supplies from all existing classes of users. Because of the risks of Beverage Bottling Uses, the District has determined it is not practicable for the District to fix standard rates for potential water sales to Beverage Manufacturers. This Ordinance authorizes the potential sale of surplus District water supplies to Beverage Manufacturers consistent with the express terms of this Ordinance, including that these users are only to be served upon such rates, charges, and other terms as are agreed between the District and the Beverage Manufacturer in a written agreement approved by the District Board of Directors.

SECTION 2 AUTHORITY

This Ordinance is adopted under the authority provided by Government Code sections 61060, subdivisions (a), (b), and (h), 61100, subdivision (a), and Water Code sections subdivision (a), 71611, 71612, 71613, 71614, and 71616.

SECTION 3 AMENDMENT OF ORDINANCE NO. 27

Ordinance No. 27 is amended as follows:

- 3.1. Section 1.02 "Definitions" is amended to add the following definitions and then renumbered to place the section's definitions into alphabetical order:

"Beverage" means any of the following products if those products are in liquid, ready-to-drink form, and are intended for human consumption: beer and other malt beverages; wine and distilled spirit coolers; carbonated water, including soda and carbonated mineral water; noncarbonated water, including noncarbonated mineral water; carbonated soft drinks; noncarbonated soft drinks and "sport" drinks; coffee and tea drinks; carbonated fruit drinks; or vegetable juice in beverage containers of 16 ounces or less.

"Beverage Container" means an individual, separate bottle, can, jar, carton, or other receptacle, however denominated, in which a Beverage is sold, and which is constructed of metal, glass, or plastic, or other material, or any combination of these materials, but does not include cups or other similar open or loosely sealed receptacles.

"Beverage Manufacturer" has the meaning provided in Public Resources Code section 14506 as of May 1, 2021. Notwithstanding anything to the contrary in this ordinance, the following shall not be considered to be a Beverage Manufacturer: brewers producing less than 5,000 gallons of Beverage for sale in a 12-month period.

"Beverage Bottling Uses" - The provision of Extraordinary Water Service to a Beverage Manufacturer.

"Extraordinary Water Service" - Water service and facilities provided for extraordinary purposes not historically served by the District on a permanent basis and the water available thereto.

3.2. Section 4.01.2 is added as follows:

Notwithstanding anything in this Ordinance to the contrary, Beverage Manufacturers are a separate and distinct class of water users from the users identified in Section 4.01. Service for Beverage Bottling Uses is subject to Section 4.05.

3.3. Section 4.05 "Service to Beverage Manufacturers" is added as follows:

4.05 Service to Beverage Manufacturers

Water service to a Beverage Manufacturer for Beverage Bottling Uses shall be subject to all of the following conditions:

- a. The availability of surplus water above the amounts necessary to meet the reasonable needs of Regular Water Service customers for beneficial uses within the District;
- b. Compliance with all rules applicable to water service by the District, to the extent not inconsistent with this section;
- c. Compliance with the California Environmental Quality Act; and,
- d. Execution of one or more written agreements approved by the Beverage Manufacturer and the District's Board of Directors that set forth the water rates, charges, and other terms applicable to the service.

3.4. Except as expressly amended by this ordinance, all other provisions of Ordinance No. 27 remain unchanged and in full force and effect.

SECTION 4 SEVERABILITY

If any provision, paragraph, word, section or article of this Ordinance is invalidated, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

SECTION 5 INCONSISTENCY

To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or provisions of any prior District ordinances, resolutions, rules or regulations governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof, and such inconsistent or conflicting provisions of prior ordinances, resolutions, rules or regulations are hereby repealed.

SECTION 6 EFFECTIVE DATE

This Ordinance is effective 30 days after February 28, 2022.

SECTION 7 PUBLICATION AND POSTING

Within 15 days after this Ordinance's passage, it shall be published once, with the names of the members voting for and against the Ordinance, in a newspaper published in Siskiyou County.

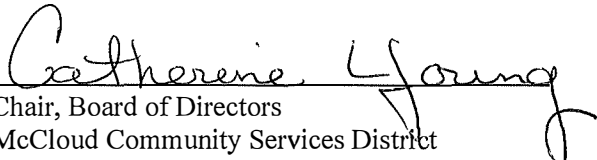
Passed and adopted at a meeting of the Board of Directors of McCloud Community Services District on this 28th day of February, 2022, at McCloud, California by the following vote:

AYES: Young, Hanson, Richey, Zanni, Rorke

NOES:

ABSENT:

ABSTAIN:



Chair, Board of Directors
McCloud Community Services District

Attest:



Secretary, Board of Directors McCloud
Community Services District