

ORDINANCE NO. 2014-01

AN ORDINANCE OF ALAMEDA COUNTY WATER DISTRICT
DECLARING A WATER SHORTAGE EMERGENCY AND ADOPTING
WATER USE REGULATIONS, RESTRICTIONS AND GUIDELINES FOR
THE WATER SHORTAGE EMERGENCY.

BE IT ORDAINED by the Board of Directors of ALAMEDA COUNTY WATER DISTRICT as follows:

SECTION 1. DECLARATION OF A WATER SHORTAGE EMERGENCY.

The Board of Directors finds and declares as follows:

- (a) The District's primary sources of supplies include: imported water from the State Water Project (40%); imported water from the San Francisco Public Utilities Commission (SFPUC) Regional Water System (20%); and local supplies originating from rainfall and runoff from the Alameda Creek Watershed (40%).
- (b) On January 17, 2014, Edmund G. Brown, Governor of California, proclaimed a State of Emergency to exist in the State of California due to severe drought conditions.
- (c) On January 31, 2014, the California Department of Water Resources (DWR) announced that the 2014 State Water Project (SWP) allocation for all SWP Contractors is zero percent (0%) of the Contractors' contractual maximum SWP allocations due to the exceptionally dry conditions.
- (d) Locally, Calendar Year 2013 was the driest year on record with only 23% of the long-term average precipitation, impacting local surface water and groundwater supplies.
- (e) Additional findings supporting the actions in this Ordinance are set forth in the staff report for this Ordinance and the March 13, 2014 staff presentation to the Alameda County Water District Board of Directors which are incorporated into this Ordinance by this reference.
- (f) On February 13, 2014, at a properly noticed regular Board meeting, the Board considered whether to declare that a water shortage emergency condition exists within the water service area of the District, and decided to hold a public hearing in March 2014 on this issue and to provide District customers an opportunity to be heard to protest against the declaration and to present their needs to the Board of Directors.
- (g) Notice of the public hearing was published pursuant to law one time at least seven days prior to the date of the public hearing in The Argus, a newspaper of general circulation, printed and published within the water service area of the District.
- (h) The full text of this Ordinance was published in The Argus at least five days prior to the date of the public hearing.

- (i) The full text of this Ordinance was posted in the office of the District and posted on the District's website at least five days prior to the public hearing.
- (j) At the public hearing all persons present were given an opportunity to be heard and all persons desiring to be heard were heard.
- (k) The public hearing was called, noticed and held in all respects as required by law.
- (l) This Board heard and has considered each protest against the water shortage emergency declaration and all comments presented at the public hearing.
- (m) The Board of Directors declares that a water shortage emergency condition exists and prevails within the water service area of this District. The water shortage exists by reason of the fact that the ordinary demands and requirements of the water consumers in the Alameda County Water District service area cannot be met and satisfied by the water supplies now available to the District without depleting the water supply or diminishing its quality to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

SECTION 2. PURPOSE AND AUTHORITY.

The purpose of this Ordinance is to conserve the water supply of the District for the greatest public benefit with particular regard to public health, fire protection and domestic use; to conserve water by reducing and restricting nonessential water use that if continued would constitute waste; and to the extent necessary by reason of drought and the existing water shortage emergency condition, to reduce water use fairly and equitably. This Ordinance is adopted pursuant to the District's authority under Sections 350 et seq. and 31026 et seq. of the California Water Code.

The water supply of the District includes water from the District's distribution system, as well as groundwater from the Niles Cone Groundwater Basin, which the District manages and regulates pursuant to its authority under the Replenishment Assessment Act of the Alameda County Water District, Chapter 1942 of the Statutes of 1961. The Niles Cone Groundwater Basin is an essential component of the District's water supply and must be conserved during this water shortage emergency. This Ordinance applies to all water from the District's water distribution system and to all wells, public and private, within the District's service boundary that produce water from the Niles Cone Groundwater Basin.

SECTION 3. EFFECT OF ORDINANCE.

This Ordinance shall take effect immediately, shall supersede and control over any other ordinance or regulation of the District in conflict herewith, and shall remain in effect until the Board of Directors declares that the water shortage emergency has ended.

SECTION 4. WATER USE LIMITATIONS.

(a) Mandatory Restrictions on Water Use.

During the water shortage emergency condition, and to preserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection, the following uses of water are prohibited:

- (1) Use of water in violation of ACWD Ordinance No. 2008-01 Prohibiting Wasteful Use of Water;
- (2) Use of water for the irrigation of lawns or other landscaped areas on consecutive days. With the exception of Item (3) below, landscape irrigation cannot be more frequent than:
 - One day per week for the period of April 1 through May 31;
 - Two days per week for the period of June 1 through September 30;
 - One day per week for the period of October 1 through November 30.
 - One day per week for the period of December 1 through March 31. Landscape irrigation during this period should be avoided except during an extended dry period. During this period landscape irrigation while it is raining is prohibited.

This section does not apply to the following categories of use:

- Watering or irrigating by use of a hand-held bucket or similar container.
- Watering for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
- Maintenance of existing landscape necessary for fire protection.
- Maintenance of existing landscape for soil erosion control.
- Maintenance of plant materials identified to be rare or essential to the well-being of protected species.
- Maintenance of turf at sports fields, playing fields, and other active recreation use areas within public parks, school grounds, golf course greens, and day care centers, provided that such irrigation does not exceed 3 days per week for the period of June 1 through September 30 and 2 days per week for the period of October 1 through May 31. Landscape irrigation during the period of December 1 through March 31 should be avoided except during an extended dry period.
- Actively irrigated environmental mitigation projects.
- Maintenance of vegetation, including fruit trees and shrubs, intended for consumption.

Increasing the frequency and/or duration of irrigation run times to offset the above restrictions on days of allowable irrigation is contrary to the purpose of this Ordinance, and is therefore prohibited.

- (3) Use of water for the irrigation of new landscape installed after January 1, 2014 cannot be more frequent than three times per week throughout the year, provided that all of the following conditions are met:

- a. The newly installed landscape replaces turf grass that was regularly maintained and irrigated.
 - b. The new landscape consists solely of drought tolerant plants and is consistent with the requirements for drought tolerant landscaping established in the District's Turf Replacement Program.
 - c. The new landscape is irrigated solely by drip irrigation, or another low-volume irrigation type such as micro-spray, micro-jet or micro-bubbler where no emitter produces more than 2 gallons of water per hour, or by hose equipped with a quick-acting positive shutoff nozzle.
 - d. Mulch is used around the new landscaping to minimize evaporative losses.
- (4) Use of water for lawn or garden watering, or any other landscape irrigation, in a manner which results in excessive ponding, flooding and/or excessive runoff in gutters or other waterways, patios, driveways, walks or streets;
 - (5) Use of water for washing sidewalks, walkways, driveways, patios, parking lots, tennis courts or other hard-surfaced areas;
 - (6) Use of hoses for any purpose, including washing cars, boats, trailers or other vehicles and machinery, without a quick-acting positive shutoff nozzle;
 - (7) The use of water for cleaning building or mobile home exteriors, including windows, except for the preparation of such exterior surfaces for the purpose of repair or repainting (only allowed with the use of a pressurized washing device equipped with a quick-acting positive shutoff nozzle);
 - (8) The draining and refilling of all existing swimming pools, except for protection of public health and safety;
 - (9) Use of single pass cooling systems in new (non-residential) connections ;
 - (10) Use of non-recirculating systems in new conveyer car wash and commercial laundry systems;
 - (11) Use of non-recycling decorative water fountains.

Depending on the continued severity of the drought and water shortage emergency, the District may update this Ordinance to impose additional water use restrictions as conditions warrant. Any updates to this Ordinance will be adopted pursuant to the District's authority under Sections 350 et seq. and 31026 et seq. of the California Water Code.

(b) Enforcement of Restrictions.

- (1) Written Warning: If the District determines that a customer is using water in violation of this Ordinance, the District will send a written warning to the customer that lists the name and address of the person on the account, identifies the wasteful use of water that violates the mandatory restrictions on water use, requests that the customer

stop such wasteful use, informs the customer about the process for applying for an exception from the requirements of this Ordinance, and informs the customer that failure to comply with this Ordinance may result in the termination of service.

- (2) On-site Notification: The District may, after issuing a written warning, and if the customer does not request an exception, conduct a follow-up visit in order to ascertain whether wasteful use of water is still occurring. In the event that continued waste of water that violates the mandatory restrictions on water use is observed, and no exception has been granted, the District will make reasonable efforts to notify an adult residing at the property if a residential account or an adult working on the property if a non-residential account, and will issue a second written warning by on-site notification of wasteful water use and the customer will be charged the field service visit charge established in the District's Rate and Fee Schedule, Section 3A. This second written warning will include all the information included in the first written warning and will be hand delivered to the adult on the premises or posted on the premises.
- (3) Termination of Water Service: In the event that District personnel observe continued waste of water that violates the mandatory restrictions on water use occurring at a customer's premises more than 48 hours after the on-site notification, it shall be deemed to be a willful violation of the mandatory restrictions on water use, and the General Manager may authorize termination of water service.
- (4) Restoring Water Service: The reconnection charge established in the District's Rate and Fee Schedule, Section 3E must be paid before the District will restore service. In addition, the customer must have stopped the wasteful use of water and have paid all charges owed to the District under this Ordinance, and all other rates and fees owed, before the District will restore water service.

(c) Violation is a Misdemeanor.

Pursuant to California Water Code Section 31029, use of water in violation of the restrictions on water use set forth in Section 4 of this Ordinance is a misdemeanor.

SECTION 5. WATER USE GUIDELINES.

During the water shortage emergency condition, customers are urged to adhere to the following guidelines to conserve the limited water supply available:

- (1) Use water for beneficial purposes in a manner which minimizes the use of water, and repair leaks as soon as possible.
- (2) Replace non-conserving plumbing fixtures (e.g. toilets, showerheads, faucets, clothes washers) with newer, water efficient models.

- (3) Reduce indoor water use by taking the following actions:
 - a. Turn off the tap while brushing teeth, shaving, and washing hands
 - b. Run dishwashers and washing machines with full loads only
 - c. Take shorter showers

(4) Landscape Guidelines:

Irrigate early in the morning (before 10:00 a.m.), to minimize evaporation.

Installation of new landscaping should utilize best known irrigation and horticultural practices for efficient water use.

Existing systems should be evaluated and repaired to minimize evaporation.

Use drought tolerant plant species wherever possible for replacement and at all new landscape installations. Installation of non-drought tolerant landscaping, including turf, should be avoided.

Use non-potable water from rain water capture and/or graywater for landscape irrigation. Graywater should not be used in vegetable gardens where food is a root crop or touches the ground surface. Regulations for the design and construction of graywater systems can be found in Chapter 16A of the California Plumbing Code. Most graywater systems also require permits from the local cities.

- (5) Use non-potable water for construction purposes unless it is not appropriate and/or not available. If reclaimed water is used, the proposed conditions of use must meet the requirements of the San Francisco Bay Regional Water Quality Control Board.
- (6) Non-residential customers should utilize systems which recycle water when possible.
- (7) Restaurants should serve water to customers only when requested.

SECTION 6. APPLICATION PROCEDURE FOR EXCEPTIONS.

Consideration of written applications for exceptions regarding the mandatory restrictions on water use set forth in Section 4 shall be as follows:

- (a) A customer may submit a written application for an exception to the mandatory restrictions on water use to the District's Drought Management Coordinator or designee. The application must be on the District's form and must include the customer name, account number(s), a description of the proposed water use and estimated duration and quantity of water use (e.g., gallons per day), and a description of the reason an exception is requested.
- (b) The Drought Management Coordinator or designee will consider each application for an exception to the mandatory restrictions on water use based on the criteria established for residential and non-residential customers. If the criteria is satisfied, the Drought Management Coordinator or designee may grant exceptions for reasons that include

benefits and/or needs of water to be used, potential adverse economic impacts, implementation complexities/issues, and mitigation measures/offsets.

- (c) A customer may appeal a denial of an application by submitting a written appeal to the General Manager on the District's form and include the reasons why the customer disagrees with the denial.

SECTION 7. EXEMPTION FROM CEQA.

The District Board of Directors finds that the actions taken in this Ordinance are exempt from provisions of the California Environmental Quality Act of 1970 because they are immediate actions necessary to prevent or mitigate an emergency, as described in section 15269(c), and to assume the maintenance, restoration, or enhancement of a natural resource, as described in section 15307, of the Guidelines promulgated under said Act.

SECTION 8. SEVERABILITY.

If any provision of this Ordinance is held to be invalid or unenforceable, that holding will not affect the remainder of the Ordinance, which shall remain in full force and effect.

SECTION 9. PUBLICATION AND POSTING OF ORDINANCE.

The Board of Directors direct that the full text of this Ordinance be published in The Argus and that a certified copy of the full text of this Ordinance be posted in the Office of the District and on the District's website within ten days from the date this Ordinance is adopted and identifying how each Director voted on this Ordinance.

PASSED AND ADOPTED this 13th day of March, 2014, by the following vote:

AYES: Directors Koller, Gunther, Huang, and Sethy

NOES: Director Weed

ABSENT: None

/s/ PAUL S. SETHY
Paul S. Sethy, President
Board of Directors
Alameda County Water District

ATTEST:

APPROVED AS TO FORM:

/s/ ANDREW WARREN
Andrew Warren, Assistant District Secretary
Alameda County Water District

/s/ PATRICK T. MIYAKI
Patrick T. Miyaki, Attorney
Alameda County Water District