THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: September 5, 2008 REPORT NO: **08-127**

ATTENTION: Natural Resources and Culture Committee
Agenda of September 10, 2008

SUBJECT: Update on Revisions to the City's Emergency Water Regulations

REFERENCE: Municipal Code Section 67.3801- 67.3811

REQUESTED ACTION: THIS IS AN INFORMATION ITEM ONLY.

STAFF RECOMMENDATION: Accept the Report.

SUMMARY:

Background

In March of this year, the County Water Authority (CWA) approved a Model Drought Ordinance designed to improve consistency between its member agencies when responding to regional water supply shortages. This model ordinance specified and clarified behavioral restrictions on the use of water in the event consumer demand reductions are necessary in order to meet expected supplies. The model ordinance included specific demand reduction targets at the 10%, 20%, and 40% levels which provide a basis for action by the CWA, and provide a framework for county retail water agencies to respond in kind. In addition, the model ordinance provides language enabling agencies, should they choose, to implement water allocations for property served by the agency. (See attached Model Drought Ordinance.)

It is intended that the model ordinance be considered for adoption by all the CWA member agencies throughout this fall. While agencies currently have existing drought response ordinances in place, the language in these existing ordinances typically do not have specific demand reduction targets and there are inconsistencies between agencies in the behavioral restrictions and "drought stage" responses required. The CWA is coordinating a more systematic region-wide response in the event supply shortages develop.

As of August 12, only 10 of the 23 regional water agencies had adopted provisions of the new drought ordinance, while the remaining agencies were still in the review process. Of the 10 agencies adopting the ordinance, several have modified the general language found in the model ordinance to better reflect their agency-specific needs and customer base. No agency has implemented water allocation plans provided for in the model ordinance. Additional updates are

provided by the CWA on a monthly basis regarding the progess in adopting new ordinances region-wide.

Key Elements of the CWA Model Drought Ordinance

The model ordinance envisions 4 drought response levels. At Level 1, voluntary behavioral restrictions are triggered should a consumer demand reduction of "up to 10%" be required in order to meet available supplies. These behavioral restrictions include those currently found in the City's "Stage 1 – Water Watch" response effort - restrictions on such things as washing down paved surfaces, using hand-held hoses equipped with positive shut-off valves, serving water at restraurants only upon request, offering hotel guests the option of not laundering linens daily, etc.

At a Level 2 – "Drought Alert" condition, the model ordinace makes all Level 1 conditions mandatory. In addition, residential and commercial landscape irrigation is limited to no more than 3 days per week. During the months of November through May, which are typically cooler months, landscape irrigation is limited to once per week. For irrigation systems that do not use weather based controllers, drip/micro irrigation systems or stream-rotor sprinklers, lawn watering is limited to no more than 10 minutes per station. Level 2 is triggered when a consumer demand reduction of "up to 20%" is necessary in order to meet available supplies.

Drought response Level 3 is triggered when a demand reduction of "up to 40%" is necessary. At this level, the model ordinance proposes limiting residential and commercial landscpe irrigation to no more than two days per week; restricts the filling or re-filling of ornamental lakes, ponds, residential pools and spas; restricts car washing to commercial carwashes that recirculate water; and requires the repair of water leaks within 48 hours of notification by the Water Department. More significantly, at Level 3, the model ordinance provides that no new potable water service shall be provided, nor temporary or permanent water meters issued, exepct when a valid unexpired building permit has been issued; the project is necessary for the public health; or in the event that water demand for the project can be offset. Finally, at Level 3, the model ordinance provides that agencies may establish water allocations (i.e. the maximum water consumption allowed at a property before penalties are assessed) for individual properties.

At drought response Level 4, which is triggered when a reduction of greater than 40% is required, in addition to Level 3 restrictions, all landscape irrigation is stopped, except in unique and limited circumstances, such as the maintenance of landscaping necessary for fire protection as specified by the Fire Marshal, the watering of livestock, and water used for actively irrigated environmental mitigation projects. All water leaks are to be repaired within 24 hours.

City Efforts

The Water Department has been reviewing the proposed language of the model ordinance for incorporation into the City's existing emergency water regulations. Given the unique and varied characteristics of the City customer base, significant consideration is being given to the impact of various restrictions proposed by the model ordinance. Such considerations include the enforcement mechanisms needed that would likely achieve compliance at various response

levels, the timing and structure of any proposed water allocations allowed for in the ordinance, and the mechanisms by which individual customers, property owners and businesses may appeal behavioral or allocation restricitions based upon unique and compelling circumstances.

The department expects to have a proposed drought ordinance available for review within the next 30 days, and to have changes codified in the Municipal Code before the end of the calendar year.

FISCAL CONSIDERATIONS:

None with this action. Implementation of drought response levels will require additional resources in order to achieve compliance. The extent of this resource requirement is not known at this time.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None with this action. The Mayor's Office will be scheduling community meetings which will occur in each Council District to discuss water supply issues impacting the City of San Diego.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: While no impacts are expected with this item, future changes to the existing Municipal Code regarding the City's Emergency Water Regulations will effect all City of San Diego water customers.

9/4/08

Alex Ruiz
Assistant Water Department Director

9/4/08

J. M. Barrett
Public Utilities Director

Attachment: Model Drought Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF [AGENCY] ADOPTING A DROUGHT RESPONSE CONSERVATION PROGRAM

WHEREAS, article 10, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water; and

WHEREAS, California Water Code sections 375 et seq. authorize water suppliers to adopt and enforce a comprehensive water conservation program; and

WHEREAS, adoption and enforcement of a comprehensive water conservation program will allow the [AGENCY] to delay or avoid implementing measures such as water rationing or more restrictive water use regulations pursuant to a declared water shortage emergency as authorized by California Water Code sections 350 et seq.; and

WHEREAS, San Diego County is a semi-arid region and local water resources are scarce. The region is dependent upon imported water supplies provided by the San Diego County Water Authority, which obtains a substantial portion of its supplies from the Metropolitan Water District of Southern California. Because the region is dependent upon imported water supplies, weather and other conditions in other portions of this State and of the Southwestern United States affect the availability of water for use in San Diego County; and

WHEREAS, the San Diego County Water Authority has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of the Water Authority's programs to provide a reliable supply of water to meet the needs of the Water Authority's 24 member public agencies, including the [AGENCY]. The Water Authority's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Water Authority's Urban Water Management Plan; and

WHEREAS, as anticipated by its Urban Water Management Plan, the San Diego County Water Authority, in cooperation and consultation with its member public agencies, has

adopted a Drought Management Plan, which establishes a progressive program for responding to water supply limitations resulting from drought conditions. This ordinance is intended to be consistent with and to implement the Water Authority's Drought Management Plan; and

WHEREAS, the Water Authority's Drought Management Plan contains three stages containing regional actions to be taken to lessen or avoid supply shortages. This ordinance contains drought response levels that correspond with the Drought Management Plan stages; and

WHEREAS, the [AGENCY], due to the geographic and climatic conditions within its territory and its dependence upon water imported and provided by the San Diego County Water Authority, may experience shortages due to drought conditions, regulatory restrictions enacted upon imported supplies and other factors. The [AGENCY] has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of its programs to provide a reliable supply of water to meet the needs of the public within its service territory. The [AGENCY's] Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Urban Water Management Plan adopted by the [AGENCY]; and

WHEREAS the water conservation measures and progressive restrictions on water use and method of use identified by this ordinance provide certainty to water users and enable [AGENCY] to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public.

NOW, THEREFORE, the [LEGISLATIVE BODY] of [AGENCY] does ordain as follows:

SECTION 1.0 DECLARATION OF NECESSITY AND INTENT

(a) This ordinance establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the [AGENCY] in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.

(b) This ordinance establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of drought response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies.

(c) Level 1 condition drought response measures are voluntary and will be reinforced through local and regional public education and awareness measures that may

be funded in part by [AGENCY]. During drought response condition Levels 2 through 4, all conservation measures and water-use restrictions are mandatory and become increasingly restrictive in order to attain escalating conservation goals.

(d) During a Drought Response Level 2 condition or higher, the water conservation measures and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in this ordinance and as provided in [AGENCY] Administrative or Municipal Code.

SECTION 2.0 DEFINITIONS

(a) The following words and phrases whenever used in this chapter shall have the meaning defined in this section:

1. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

2. "Water Authority" means the San Diego County Water Authority.

3. "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this ordinance and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

4. "Metropolitan" means the Metropolitan Water District of Southern California.

5. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the [AGENCY].

SECTION 3.0 APPLICATION

(a) The provisions of this ordinance apply to any person in the use of any water provided by the [AGENCY].

(b) This ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.

(c) Nothing in this ordinance is intended to affect or limit the ability of the [AGENCY] to declare and respond to an emergency, including an emergency that affects the ability of the [AGENCY] to supply water.

(d) The provisions of this ordinance do not apply to use of water from private wells or to recycled water.

(e) Nothing in this ordinance shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the [AGENCY] is subject to this ordinance in the use of the other water.

SECTION 4.0 DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH CONDITION

(a) A Drought Response Level 1 condition is also referred to as a "Drought Watch" condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Drought Response Level 1 and take action to implement the Level 1 conservation practices identified in this ordinance.

(b) During a Level 1 Drought Watch condition, [AGENCY] will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. [The same water conservation practices become mandatory if [AGENCY] declares a Level 2 Drought Alert condition]:

1. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.

2. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

3. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only.

4. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

5. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

6. Use re-circulated water to operate ornamental fountains.

7. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.

8. Serve and refill water in restaurants and other food service establishments only upon request.

9. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.

10. Repair all water leaks within five (5) days of notification by the [AGENCY] unless other arrangements are made with the General Manager.

11. Use recycled or non-potable water for construction purposes when available.

(c) During a Drought Response Level 2 condition or higher, all persons shall be required to implement the conservation practices established in a Drought Response Level 1 condition.

SECTION 5.0 DROUGHT RESPONSE LEVEL 2 – DROUGHT ALERT CONDITION

(a) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The [AGENCY] Board of Directors shall declare the existence of a Drought Response Level 2 condition and implement the mandatory Level 2 conservation measures identified in this ordinance.

(b) All persons using [AGENCY] water shall comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert, and shall also comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) assigned days per week on a schedule established by the General Manager and posted by the [AGENCY]. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the [AGENCY]. This section shall not apply to commercial growers or nurseries.

2. Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10) minutes per watering station per assigned day. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotor sprinklers.

3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 5 (b) (1), on the same schedule set forth in section 5 (b) (1) by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

4. Repair all leaks within seventy-two (72) hours of notification by the [AGENCY] unless other arrangements are made with the General Manager.

5. Stop operating ornamental fountains or similar decorative water features unless recycled water is used.

SECTION 6.0 DROUGHT RESPONSE LEVEL 3 – DROUGHT CRITICAL CONDITION

(a) A Drought Response Level 3 condition is also referred to as a "Drought Critical" condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of

supplies, a consumer demand reduction of up to 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The [AGENCY] Board of Directors shall declare the existence of a Drought Response Level 3 condition and implement the Level 3 conservation measures identified in this ordinance.

(b) All persons using [AGENCY] water shall comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices during a Level 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by the [AGENCY]. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the [AGENCY]. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 6 (b) (1), on the same schedule set forth in section 6 (b) (1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance.

4. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems.

5. Repair all leaks within forty-eight (48) hours of notification by the [AGENCY] unless other arrangements are made with the General Manager.

(c) Upon the declaration of a Drought Response Level 3 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect the public's health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of [AGENCY].

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

(d) Upon the declaration of a Drought Response Level 3 condition, [AGENCY] will suspend consideration of annexations to its service area.

(e) The [AGENCY] may establish a water allocation for property served by the [AGENCY] using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the [AGENCY] establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the [AGENCY] customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the [AGENCY], any person that uses water in excess of the allocation shall be subject to a penalty in the amount of $___for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 7.0 DROUGHT RESPONSE LEVEL 4 – DROUGHT EMERGENCY CONDITION

(a) A Drought Response Level 4 condition is also referred to as a "Drought Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the [AGENCY] to have maximum supplies available to meet anticipated demands. The [AGENCY] shall declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350.

(b) All persons using [AGENCY] water shall comply with conservation measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use unless the [AGENCY] has determined that recycled water is available and may be lawfully applied to the use.

A. Maintenance of trees and shrubs that are watered on the same schedule set forth in section 6 (b) (1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under section 6 (b) (1);

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within twenty-four (24) hours of notification by the [AGENCY] unless other arrangements are made with the General Manager.

(c) The [AGENCY] may establish a water allocation for property served by the [AGENCY]. If the [AGENCY] establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the [AGENCY] customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the [AGENCY], any person that uses water in excess of the allocation shall be subject to a penalty in the amount of $___for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 8.0 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN AND DROUGHT RESPONSE LEVELS

(a) The correlation between the Water Authority's DMP stages and the [AGENCY'S] drought response levels identified in this ordinance is described herein. Under DMP Stage 1, the [AGENCY] would implement Drought Response Level 1 actions. Under DMP Stage 2, the [AGENCY] would implement Drought Response Level

1 or Level 2 actions. Under DMP Stage 3, the [AGENCY] would implement Drought Response Level 2, Level 3, or Level 4 actions.

(b) The drought response levels identified in this ordinance correspond with the Water Authority DMP as identified in the following table:

Drought Response Levels	Use Restrictions	Conservation Target	DMP Stage
1 - Drought Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Drought Alert	Mandatory	Up to 20%	Stage 2 or 3
3 - Drought Critical	Mandatory	Up to 40%	Stage 3
4 - Drought Emergency	Mandatory	Above 40%	Stage 3

SECTION 9.0 PROCEDURES FOR DETERMINATION AND NOTICATION OF DROUGHT RESPONSE LEVEL

(a) The existence of a Drought Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the [AGENCY] and provided to the [AGENCY] Board of Directors. The General Manager may publish a notice of the determination of existence of Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the [AGENCY]. The [AGENCY] may also post notice of the condition on their website.

(b) The existence of Drought Response Level 2 or Level 3 conditions may be declared by resolution of the [AGENCY] Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the [AGENCY] shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Drought Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 351 and 352. The mandatory conservation measures applicable to Drought Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the [AGENCY] shall publish a copy of the resolution in a newspaper used for publication of official notices. If the [AGENCY] establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the [AGENCY] customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The [AGENCY] Board of Directors may declare an end to a Drought Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.

SECTION 10.0 HARDSHIP VARIANCE

(a) If, due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a person using agency water or to property upon which agency water is used, that is disproportionate to the impacts to [AGENCY] water users generally or to similar property or classes of water uses, then the person may apply for a variance to the requirements as provided in this section.

(b) The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using agency water or to property upon with agency water is used, that is disproportionate to the impacts to [AGENCY] water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.

1. Application. Application for a variance shall be a form prescribed by [AGENCY] and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the [AGENCY] Board of Directors.

2. Supporting Documentation. The application shall be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.

3. Required Findings for Variance. An application for a variance shall be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the [AGENCY], all of the following:

A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other [AGENCY] customers.

B. That because of special circumstances applicable to the property or its use, the strict application of this ordinance would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.

C. That the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the [AGENCY] to effectuate the purpose of this chapter and will not be detrimental to the public interest.

D. That the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.

4. Approval Authority. The General Manager shall exercise approval authority and act upon any completed application no later than 10 days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory drought response.

5. Appeals to [AGENCY] Board of Directors. An applicant may appeal a decision or condition of the General Manager on a variance application to the [AGENCY] Board of Directors within 10 days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the [AGENCY] Board of Directors shall act as the approval authority and review the appeal de novo by following the regular variance procedure. The decision of the [AGENCY] Board of Directors is final.

SECTION 11.0 VIOLATIONS AND PENALTIES

(a) Any person, who uses, causes to be used, or permits the use of water in violation of this ordinance is guilty of an offense punishable as provided herein.

(b) Each day that a violation of this ordinance occurs is a separate offense.

(c) Administrative fines may be levied for each violation of a provision of this ordinance as follows:

1. One hundred dollars for a first violation.
2. Two hundred dollars for a second violation of any provision of this ordinance within one year.
3. Five hundred dollars for each additional violation of this ordinance within one year.

(d) Violation of a provision of this ordinance is subject to enforcement through installation of a flow-restricting device in the meter.

(e) Each violation of this ordinance may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days or by a fine not exceeding $1,000, or by both as provided in Water Code section 377.

(f) Willful violations of the mandatory conservation measures and water use restrictions as set forth in Section 7.0 and applicable during a Level 4 Drought

Emergency condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code section 356.

(g) All remedies provided for herein shall be cumulative and not exclusive.

SECTION 12.0 EFFECTIVE DATE

This ordinance is effective immediately upon adoption or as otherwise established by State law for [AGENCY].

PASSED, APPROVED AND ADOPTED this [DATE] by the following vote:

AYES;

NOES:

ABSTAIN:

ABSENT:

_____

[President/Chair of Legislative Body]