



City of San Diego

MEMORANDUM

DATE: September 29, 2014
TO: Mayor Kevin Faulconer
FROM: Councilmembers David Alvarez and Ed Harris
SUBJECT: Response to Drought Conditions

David Alvarez
Ed Harris

At the July 23, 2014 meeting of the Environment Committee, Councilmembers heard a presentation from Public Utilities Department staff regarding the City's water conservation measures. Staff was directed to return to Committee on October 9, 2014 to review progress and take further action as necessary.

In light of the continuing drought conditions, it is appropriate to take further measures, as outlined below:

1. City must move to Drought Level 2 water restrictions immediately

As San Diegans are aware in their daily lives, more than three years of drought have taken a toll on our natural environment, our agriculture, and our businesses. Just this week the US Drought Monitor showed 95% of the state in severe to exceptional drought.¹ Even the potential for an El Nino weather event which could produce more precipitation for the state is dimming, with forecasters now predicting a weaker system.² Continued drought is being exacerbated by above-normal temperatures, as drier soil heats more in the sun, and the heat means more winter precipitation falls as rain rather than snow which can ameliorate conditions throughout the year.³

¹ http://droughtmonitor.unl.edu/data/pdfs/20140923/20140923_usdm.pdf

² <http://www.nytimes.com/2014/09/10/science/earth/el-nino-california-drought.html?smid=tw-share&r=2>

³ http://cnap.ucsd.edu/pdf/CNAP_CAdrought_aug2014.pdf

The Metropolitan Water District (MWD) just announced it has only one-third of its water storage remaining, warning that cutbacks or rationing could be made to certain areas of Southern California.⁴ This is significant as San Diego relies on MWD for roughly 45% of our water supplies.

Many large cities across California have taken extensive measures to address the state's drought.⁵ For instance, the City of Pleasanton ordered residents, business owners, its municipal facilities and golf course to mandatorily cut water usage by 25 percent. Given the severity of the drought in Southern California, bold action is necessary.

Closer to home, when the San Diego County Water Authority moved to mandatory restrictions earlier this summer, it cited rainfall at half of normal levels and average temperatures at their highest levels since 1940. The County proposed mandatory restrictions focused on lowering outdoor water use, citing the need to take these measures now to avoid or forestall severe cutbacks should drought conditions persist or worsen.

The prohibitions of our Drought Level 2 requirements include limiting watering landscaped areas to no more than three assigned days per week, limiting sprinkler use and prohibiting the operation of ornamental fountains. These are common-sense water-saving measures that will provide objective and easy-to-follow direction to our residents. The sooner we implement and educate our residents on these measures, the sooner we will see a cultural shift to a new ethic which makes conservation a way of life.

These reasonable restrictions, implemented promptly, can potentially avoid the more severe cutbacks in Drought Level 3 or 4. And while voluntary restrictions can, and likely have had, a small impact on water use, they are unlikely to move the needle on conservation to the degree needed. At the beginning of the year the Governor called for a 20% conservation goal. Mandatory measures are far more likely to achieve this ambitious but necessary milestone than voluntary guidelines.

Indeed, in the two-year period between 2009 and 2011 when the City last moved to Level 2 restrictions, San Diegans achieved a 14 percent reduction in water consumption.⁶ The Public Utilities Department is to be commended for its well-rounded approach during that critical time – blending education, enforcement, and marketing with the mandatory restrictions. The effective tactics used during that drought period should be re-employed now.

⁴ <http://www.scpr.org/news/2014/09/22/46902/metropolitan-water-district-two-thirds-of-reserves/>

⁵ <http://www.acwa.com/content/local-drought-response>

⁶ <http://www.sandiego.gov/water/pdf/2012/wcmasterplanfy11.pdf>

2. Enhanced Enforcement Measures Are Needed For Compliance

Although the City hired 10 people in 2009 to investigate and enforce complaints of water waste, those positions were eliminated in 2011 when the drought restrictions were lifted and no fines have been recorded this year. Drought restrictions, if not enforced, cannot reach maximum efficiency. When neighbors see water waste they must be assured that they can report their concerns and that the City will have adequate staffing to investigate and address the issue.

To assure that mandatory water-saving measures remain effective, a sufficient number of trained enforcement personnel should be hired as soon as possible.

3. Drought Level 2 Restrictions Should Not Automatically Sunset

It is important that we do not presuppose how the state of emergency imposed by Governor Brown will impact San Diego. Therefore, the Drought Level 2 restrictions should not automatically revert on the expiration of the state of emergency. Rather, if the state of emergency is lifted, mandatory restrictions should be referred to the Committee on the Environment for review. At that time, staff can brief Councilmembers and give a recommendation on whether to change the Drought Level in response.

Given the severity of the drought and critical need to take proactive action before more stringent measures are necessary, staff should be prepared to address the above concerns and provide detailed recommendations at the October 9, 2014 Environment Committee.

cc: Honorable Councilmembers
Halla Razak, Director of Public Utilities
Marsi Steirer, Deputy Director of Public Utilities

(10-2011)

Article 7: Water System**Division 38: Emergency Water Regulations***("Emergency Water Regulations" added 10-19-1998 by O-18596 N.S.)***§67.3801 Declaration of Necessity and Intent**

- (a) This Division 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 City of San Diego Water Department service area 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) In addition to the general provisions of Section 67.3803, this Division 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 water supplies.
- (c) Drought Response Level 1 measures are voluntary and will be reinforced through local and regional public education and awareness measures. Drought Response condition Levels 2 or higher 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 Division are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as provided in Chapter 1 of this Code.

*(Renumbered from Sec. 67.38 and retitled to "Declaration of Emergency" on 10-19-1998 by O-18596 N.S.)**(Former Section 67.3801 repealed and added "Declaration of Necessity and Intent" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)*

(10-2011)

§67.3802 Definitions

The following words and phrases whenever used in this Division will have the meaning defined in this section:

Customer means any 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 City of San Diego.

Days are defined as calendar days, unless otherwise indicated.

Disaster means a catastrophic, naturally occurring or man-made event, including earthquake, flood, fire, riot, or storm, for which a state of emergency has been declared by the President of the United States, the Governor of California, or the executive officer or legislative body of the City or County of San Diego.

Drought means any shortage in water supply based upon expected demands that are caused by hydrological, environmental, legislative, judicial actions, or by infrastructure failure.

Grower means a *customer* 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 San Diego County Water Authority Special Agricultural Rate Programs.

Metropolitan means the Metropolitan Water District of Southern California.

Potted Plant means any plant or group of plants contained in a pot or other receptacle that can be moved, including plants on boards, bark, driftwood or airplants (epiphytes).

Water Authority means the San Diego County Water Authority.

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Water Conservation means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

(Renumbered from Sec. 67.38.1 and retitled to "Comprehensive Water Conservation Plan" on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3802 repealed and added "Definitions" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)

(Amended 10-28-2009 by O-19904 N.S.; effective 11-27-2009.)

§67.3803 Water Waste Prohibitions

The following restrictions will be in effect at all times:

- (a) A *customer* shall not allow water to leave the *customer's* property by drainage onto adjacent properties or public or private roadways or streets or gutters due to excessive irrigation and/or uncorrected leaks.
- (b) *Customers* shall repair or stop all water leaks upon discovery or within seventy-two hours of notification by the City of San Diego.
- (c) A *customer* will not use a running hose to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate safety or sanitation hazards, unless connected to a water efficient device such as a commercial water broom.
- (d) A *customer* will not overfill swimming pools and spas.
- (e) A *customer* will not use non-recirculating decorative water fountains.
- (f) Vehicle washing can only be done in a commercial car wash or using a hose with an automatic shutoff nozzle or hand held container.
- (g) Single pass-through cooling systems as part of new water service connections will be prohibited. Non-recirculating systems in all new conveyer car wash and commercial laundry systems will also be prohibited.
- (h) Restaurants and other food establishments will only serve and refill water upon request.
- (i) Guests in hotels, motels, and other commercial lodging establishments will be provided the option of not laundering towels and linens daily.

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- (j) A *customer* may only irrigate *potted plants*, non-commercial vegetable gardens and fruit trees, residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, before 10:00 a.m. and after 6:00 p.m. during the months of June through October and before 10:00 a.m. and after 4:00 p.m. during the months of November through May. A *customer* may irrigate at any time the following:
- (1) as required by a landscape permit;
 - (2) for erosion control;
 - (3) for establishment, repair, or renovation of public use fields for schools and parks;
 - (4) for landscape establishment following a *disaster*. Such irrigation is permitted for a period of up to two months, after which a hardship variance is required in accordance with Section 67.3810;
 - (5) for renovation or repair of an irrigation system with an operator present; or
 - (6) for nursery and commercial *growers* using a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip or micro-irrigation system or equipment is used. Irrigation of nursery propagation beds is permitted at any time.

*(Renumbered from Sec. 67.38.2 and amended 10-19-1998 by O-18596 N.S.)
(Former Section 67.3803 repealed and added "Water Waste Prohibitions" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)
(Amended 12-7-2010 by O-20008 N.S.; effective 1-6-2011.)
(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)*

§67.3804 Application

- (a) This Division applies to any *customer* in the use of any water provided by the City of San Diego.
- (b) This Division is intended solely to further the conservation of water. It is not intended to implement or replace any provision of federal, state, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff.

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- (c) Nothing in this Division is intended to affect or limit the ability of the City Manager to declare and respond to an unforeseeable disaster or water emergency such as an earthquake, aqueduct break, or other major disruption in the water supply, pursuant to the City Charter or other provisions of this Code.
- (d) This Division does not apply to use of water from private wells or to reclaimed water, or the use of fully permitted grey water systems.
- (e) This Division does not 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 *customer* using both water subject to a special supply program and other water provided by the City of San Diego is subject to this Division in the use of water provided by the City of San Diego.
- (f) The use of potable water for industrial manufacturing, processing, or research and development is exempt from the water use restrictions during Drought Response Levels 1 and 2, if all of the following conditions are met as certified by the City Manager: 1) the business is one of the types of businesses described in categories 2000 through 3999, 7390, and 8730 of the Standard Industrial Classification Code [Editor's note. A copy is on file with the Office of the City Clerk as Document No. 00-18596-1]; 2) the business is located in an area where reclaimed water is available; 3) the business uses reclaimed water on its premises to the fullest extent possible; and 4) the business participates in all applicable City water conservation programs that are considered Best Management Practices by the California Urban Water Conservation Council. [Editor's note. A list of the City's water conservation programs that are Best Management Practices is on file with the Office of the City Clerk as Document No. 00-18596-2.]

(Renumbered from Sec. 67.38.3, retitled to "Authority to Implement Water Conservation Stages" and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3804 repealed and added "Application " 12-15-08 by O-19812 N.S; effective 1-14-2009.)

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§67.3805 Drought Response Level 1 – Drought Watch Condition

- (a) A Drought Response Level 1 condition is also referred to as a “Drought Watch” condition. The City Manager may recommend, and upon resolution of the City Council, declare a Drought Response Level 1 when there is a reasonable probability, due to *drought*, that there will be a supply shortage 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. Upon such declaration, the City Manager shall take action to implement the voluntary Level 1 conservation practices identified in this Division.
- (b) During a Level 1 Drought Watch condition, City of San Diego will increase its public education and outreach efforts to increase public awareness of the need to implement the following *water conservation* practices.
- (1) Limit all landscape irrigation to no more than three assigned *days* per week on a schedule established and posted by the City Manager. This provision does not apply to commercial *growers* or nurseries, nor to the irrigation of golf course greens and tees.
 - (2) Use a hand-held hose equipped with a positive shut-off nozzle or hand held container or a garden hose sprinkler system on a timer to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
 - (3) The washing of automobiles, trucks, trailers, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May, with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Boats and boat engines are permitted to be washed down after use. Washing is permitted at any time on the immediate premises of a commercial car wash. The use of water by all types of commercial car washes which do not use partially recirculated water will be reduced in volume by an amount determined by resolution of the City Council. Mobile equipment washings are exempt from these regulations where the health, safety and welfare of the public are contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food products, livestock and perishables.

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- (4) Use recycled or non-potable water for construction purposes when available.
- (5) Use of water from fire hydrants will be limited to fire fighting, meter installation by the Water Department as part of its Fire Hydrant Meter Program, and related activities or other activities necessary to maintain the health, safety and welfare of the citizens of San Diego.
- (6) Construction operations receiving water from a fire hydrant meter or water truck will not use water beyond normal construction activities, consistent with Section 67.3803 and that required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation hours of only before 10:00 a.m. and after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May.

- (7) Irrigation is not permitted during a rain event.

*(Renumbered from Sec. 67.38.4 and amended 10-19-1998 by O-18596 N.S.)
(Former Section 67.3805 repealed and added "Drought Response Level 1 – Drought Watch Condition " 12-15-08 by O-19812 N.S.; effective 1-14-2009.)
(Amended 10-28-2009 by O-19904 N.S.; effective 11-27-2009.)
(Amended 12-7-2010 by O-20008 N.S.; effective 1-6-2011.)
(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)*

§67.3806 Drought Response Level 2 – Drought Alert Condition

- (a) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. The City Manager may recommend and, upon resolution of the City Council, declare a Drought Response Level 2 when, due to *drought*, a consumer demand reduction of up to 20 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 2, the City Manager shall take action to implement the mandatory Level 2 conservation practices identified in this Division.
- (b) All City of San Diego water *customers* shall comply with all Level 1 Drought Watch *water conservation* practices during a Level 2 Drought Alert, and shall also comply with the following conservation measures:

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- (1) Limit lawn watering and landscape irrigation using sprinklers to no more than ten minutes maximum per watering station per assigned *Day* during the months of June through October and no more than seven minutes maximum per watering station per assigned *Day* during the months of November through May. This provision does not apply to landscape irrigation systems using water efficient devices, including drip/micro-irrigation systems and stream rotor sprinklers.
- (2) Landscaped areas, including trees and shrubs not irrigated by a landscape irrigation system governed by Section 67.3806(b)(2) shall be watered no more than three assigned days per week by using a hand held container, hand-held hose with positive shut-off nozzle, or low volume non-spray irrigation (soaker hose.)
- (3) Stop operating ornamental fountains except to the extent needed for maintenance.
- (4) *Potted plants*, non-commercial vegetable gardens and fruit trees may be irrigated on any *day*, but must be irrigated only before 10:00 a.m. or after 6:00 p.m. during the months of June through October and only before 10:00 a.m. and after 4:00 p.m. during the months of November through May.
- (5) Irrigation is permitted any *day* at any time, as follows:
 - (A) as required by a landscape permit;
 - (B) for erosion control;
 - (C) for establishment, repair or renovation of public use fields for schools and parks; or
 - (D) for landscape establishment following a *disaster*. Such irrigation is permitted for a period of up to two months, which a hardship variance is required in accordance with Section 67.3810.

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- (c) The City Manager may recommend and, upon resolution of the City Council, implement a water allocation per *customer* account served by the City of San Diego, and a schedule of surcharges or penalties for exceeding the water allocation. If the City Council adopts or modifies water allocations, the City Manager will post notice of the water allocation prior to the effective date(s). Following the effective date(s) of the water allocation as established by the City Council, any *customer* that uses water in excess of the allocation will be subject to a surcharge or penalty for each billing unit of water in excess of the allocation. The surcharge or penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this Division. The *water conservation* measures required under Level 1 Drought Watch and Level 2 Drought Alert conditions, shall be suspended during the period a water allocation is in effect.

(Renumbered from Sec. 67.38.5 and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3806 repealed and added "Drought Response Level 2 – Drought Alert Condition" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)

(Amended 10-28-2009 by O-19904 N.S.; effective 11-27-2009.)

(Amended 12-7-2010 by O-20008 N.S.; effective 1-6-2011.)

(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)

§67.3807 Drought Response Level 3 – Drought Critical Condition

- (a) A Drought Response Level 3 condition is also referred to as a "Drought Critical" condition. The City Manager may recommend and, upon resolution of the City Council, declare a Drought Response Level 3 when, due to *drought*, there will be a supply shortage and that a consumer demand reduction of up to 40 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 3, the City Manager shall take action to implement the mandatory Level 3 conservation practices identified in this Division.
- (b) All City of San Diego water *customers* shall comply with all 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 all landscape irrigation to no more than two assigned days per week on a schedule established and posted by the City Manager. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established and posted by the City Manager. This provision will not apply to commercial *growers* or nurseries, nor to the irrigation of golf course greens.

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- (2) Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain plants or animals that have been actively managed within the water feature prior to declaration of a *drought* response level under this Division.
 - (3) Stop washing vehicles except at commercial carwashes that recirculate water, or by high pressure/low volume wash systems.
- (c) Upon the declaration of a Drought Response Level 3 condition requiring a 30 percent or greater demand reduction, new potable water services, temporary or permanent water meters, and statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) will be allowed only under the circumstances listed below. This provision does not preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.
- (1) A valid 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 number of new fire hydrant meters will not exceed the existing number of currently authorized fire hydrant meters. A new fire hydrant meter will be issued only when an old meter is returned; or
 - (4) The applicant provides substantial evidence satisfactory to the City Manager of an enforceable commitment that the new water demands for the project will be offset prior to the provision of new water meter(s). Such offset shall be in the form of additional *water conservation* measures, the provision of recycled water use in place of existing potable water demands, or other such offsets developed and approved by the City Manager. These offsets shall be reflected in a reduced capacity fee from the project's initially calculated demand (for example, an offset of 75 equivalent dwelling units ("edu") is provided so that the project's 200 edu demand is reduced to 125 edus and fees are paid on 125 edus but the service and meter will be sized at 200 edus).

Development projects with approved tentative maps and related entitlements shall have their maps and related entitlement's expiration dates tolled for the period of time that the Drought Response Level 3 condition is in place but not to exceed 5 years, unless the development project applicant chooses to proceed with development under subsections (c)(1) through (c)(4) above.

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- (d) Upon the declaration of a Drought Response Level 3 condition, the City Manager will suspend consideration of annexations to its service area.
- (e) The City Manager may recommend and, upon resolution of the City Council, implement a water allocation per *customer* served by the City of San Diego, and a schedule of surcharges or penalties for exceeding the water allocation. If the City Council adopts or modifies a water allocation, the City Manager will post notice of the allocation prior to the effective date(s). Following the effective date(s) of the water allocation as established by the City Council, any *customer* that uses water in excess of the allocation will be subject to a surcharge or penalty for each billing unit of water in excess of the allocation. The surcharge or penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this Division. The *water conservation* measures required under Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions shall be suspended during the period a water allocation is in effect.

(Renumbered from Sec. 67.38.6 and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3807 repealed and added "Drought Response Level 3 – Drought Critical Condition" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)

(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)

§67.3808 Drought Response Level 4 – Drought Emergency

- (a) A Drought Response Level 4 condition is also referred to as a "Drought Emergency" condition. The City Manager may recommend and, upon resolution of the City Council, declare a water shortage emergency pursuant to California Water Code section 350 and declare a Drought Response Level 4 when there is a reasonable probability that there will be a supply shortage and that a consumer demand reduction of more than 40 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of a Drought Response Level 4, the City Manager shall take action to implement the mandatory Level 4 conservation practices identified in this Division and on the grounds provided in California Water Code section 350.

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- (b) All City of San Diego water *customers* shall comply with all *water 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 does not apply to:
 - (A) Maintenance of trees and shrubs that are watered no more than two assigned days per week on a schedule established and posted by the City Manager, and by using a hand held container, hand-held hose with an automatic shut-off nozzle, or low-volume non-spray irrigation;
 - (B) Maintenance of existing landscaping necessary for fire protection;
 - (C) Maintenance of existing landscaping for erosion control;
 - (D) Maintenance of plant materials identified to be rare, protected by City Council Policy 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 days per week according to the schedule established under Section 67.3807(b)(1);
 - (F) Watering of livestock; and
 - (G) Public works projects and actively irrigated environmental mitigation projects.
 - (2) Stop filling or refilling residential pools and spas.
 - (3) No new commitments or agreements will be entered into to provide water to *customers* or agencies located outside of the City of San Diego.

*(Renumbered from Sec. 67.38.7 and amended 10-19-1998 by O-18596 N.S.)
(Former Section 67.3808 repealed and added "Drought Response Level 4 –
Drought Emergency" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)
(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)*

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§67.3809 Procedures for Determination and Notification of Drought Response Level

- (a) The existence of a Drought Response Level 1 condition may be declared upon recommendation by the City Manager and resolution of the City Council, upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination will be filed with the City Clerk. The City Manager will publish a notice of the determination of existence of Drought Response Level 1 condition in the City's official newspaper. The City of San Diego may also post notice of the condition on its website.

The Water Department will monitor the projected supply and demand for water during periods of emergency or *drought* and will recommend to the City Manager the extent of the conservation required. The City Manager will recommend to the City Council the implementation or termination of the appropriate level of *water conservation* in accordance with this Division.

- (b) The existence of Drought Response Level 2 or Level 3 conditions may be declared upon recommendation by the City Manager and resolution of the City Council. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions will take effect on the tenth day after the date the response level is declared. Within five days following the declaration of the response level, the City Manager will publish a notice giving the extent, terms and conditions respecting the use and consumption of water a minimum of one time for three consecutive days in the City's official newspaper. If the City Council adopts a water allocation, the City Manager will publish notice of this adoption in the City's official newspaper. Water allocation will be effective on the fifth day following the date of publication or at such later date as specified in the notice.

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- (c) The existence of a Drought Response Level 4 condition may be declared upon recommendation by the City Manager and resolution of the City Council and 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 will take effect on the tenth day after the date the response level is declared. Within five days following the declaration of the response level, the City Manager will publish a notice giving the extent, terms and conditions respecting the use and consumption of water in the City's official newspaper. If the City Council adopts a water allocation, the City Manager will publish notice of the allocation in the City's official newspaper. Water allocation will be effective on the fifth day following the date of publication or at such later date as specified in the notice.
- (d) The City of San Diego may declare an end to Drought Response Levels 1, 2, 3 and 4 upon recommendation of the City Manager and resolution by the City Council at any regular or special meeting of the City Council.

*(Renumbered from Sec. 67.38.8 and amended 10-19-1998 by O-18596 N.S.)
(Former Section 67.3809 repealed and added "Procedures for Determination and Notification of Drought Response Level" 12-15-08 by O-19812 N.S; effective 1-14-2009.)*

§67.3810 Hardship Variance

- (a) If, due to unique circumstances, a specific requirement of this Division would result in undue hardship to a *customer* using City of San Diego water or to property upon which City of San Diego water is used, that is disproportionate to the impacts to City of San Diego water users generally or to similar property or classes of water uses, then the *customer* 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 *customer* using City of San Diego water or to property upon which City of San Diego water is used, that is disproportionate to the impacts to City of San Diego water users generally or to similar property or classes of water user due to specific and unique circumstances of the user or the user's property.

(1) Application.

Application for a variance will be in written form prescribed by the City Manager and will be accompanied by a non-refundable processing fee in an amount set by resolution of the City Council.

(2) Supporting Documentation.

The written application will be accompanied by photographs, maps, drawings, or other pertinent information as applicable, including a written statement of the applicant.

(3) Approval Authority.

The City Manager will exercise approval authority and act upon any completed application after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance will be promptly notified in writing of any action taken. The decision of the City Manager is final. 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.

(4) Required Findings for Variance.

(A) Except as set forth in Section 67.3810(B), an application for a variance will 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 City of San Diego, all of the following:

- (i) that the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego *customers*; and
- (ii) that because of special circumstances applicable to the property or its use, the strict application of this Division would have a disproportionate impact on the property or use that exceeds the impacts to *customers* generally; and

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- (iii) that the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City of San Diego to effectuate the purpose of this Division and will not be detrimental to the public interest; and
 - (iv) 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.
- (B) An application for a variance will 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 City of San Diego, either of the following:
- (i) that the property has been adversely impacted by a *disaster*; or
 - (ii) that proposed alternative water use restrictions for the property would result in greater water savings than the existing water use restrictions.
- (5) No relief will be granted to any *customer* for any reason in the absence of a showing by the *customer* that the *customer* has achieved the maximum practical reduction in water consumption in the *customer's* residential, commercial, industrial, institutional, agricultural or governmental water consumption.

(Renumbered from Sec. 67.38.9 on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3810 repealed and added "Hardship Variance" 12-15-08 by O-19812 N.S.; effective 1-14-2009.)

(Amended 10-28-2009 by O-19904 N.S.; effective 11-27-2009.)

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§67.3811 Violations and Penalties

It is unlawful for any *customer* to violate the mandatory provisions of this Division. Violations are subject to criminal, civil, and administrative penalties and remedies as provided in Chapter 1 of this Code. In addition, service of water may be discontinued or appropriately limited through the installation of flow-restricting devices to any *customer* who willfully uses water in violation of this Division.

(Renumbered from Sec. 67.39 and retitled to "Publication of Terms of Water Use" on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3811 repealed and added "Violations and Penalties" 12-15-08 by O-19812 N.S; effective 1-14-2009.)

