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THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: November 5, 2008 REPORT NO:08-162
ATTENTION: Council President and Members of the City Council
Agenda of November 10, 2008
SUBJECT: Emergency Water Regulations
REFERENCE: Update on Revisions to the City's Emergency Water Regulations
Report No. 08-127
Municipal Code Section 67.3801 - 67.3811

REQUESTED ACTION: Amend Municipal Code Sections 67.3801 – 67.3811.

STAFF RECOMMENDATION: Accept the Proposed Amendments and Revisions.

SUMMARY:

Attached please find the proposed amendments to the City's Municipal Code, Sections 67.3801 – 67.3811, Emergency Water Regulations (Attachment 1). These changes are being recommended in order to improve the City's demand response program in the event of a water supply shortage, and to provide greater consistency with the Model Drought Response Conservation Program Ordinance recently approved by the San Diego County Water Authority.

Background - Water Supply Shortage

The City of San Diego is located in a semi-arid climate with an average annual rainfall of 10 inches. This rainfall provides only 10 – 15% of the water needed to meet local demands. As a result, the City purchases 85-90% of its drinking water from the San Diego County Water Authority, which in turn imports water from the Metropolitan Water District of Southern California. Water provided via this supply chain originates from both the Colorado River and from the San Francisco Bay-Delta region of Northern California. A 242 mile-long aqueduct brings Colorado River water from Lake Havasu to the Southland while the 444 mile-long California Aqueduct carries water south as part of the State Water Project. Recent environmental changes and judicial actions have placed strains on these water supply sources.

The region's water supplies remain impacted by extremely dry conditions around California. Over the last year, these conditions have significantly reduced storage in key reservoirs, as well as exacerbated an eight-year drought in the Colorado River basin. The Northern California winter 2007-2008 snow pack was 67% of normal, while runoff was forecasted to be 55% of normal, making this past spring the driest on record for Northern California. The Colorado River Basin system is also at 50% of capacity.

In addition to environmental stresses, court-ordered pumping restrictions on the State Water Project, designed to protect threatened fish species, went into effect in December 2007, cutting water supplies from the Bay-Delta to 25 million Californians who live from the Bay Area to San Diego. Already this year, pumping restrictions have resulted in the loss of nearly 800,000 acre-feet of water statewide. Of that figure, the Metropolitan Water District of Southern California, from which the County Water Authority purchases the majority of its imported water supplies, has lost approximately 250,000 acre-feet due to pumping restrictions. At this point it is not clear how long these restrictions will be in place, but it is expected that the timing and amount of pumping will continue to restrict southern California water supplies for the next several years.

In light of these actions, the City, in close cooperation with its wholesalers, has continued to evaluate current-year water demand and supply requirements and has taken a leadership role in proactively calling for increased conservation by all its water customers. As a member of the County Water Authority, the City has supported the enhanced \$1.8 million public education campaign to increase public awareness regarding the current supply situation. The City has led the call for all customers to cut back usage by 20 gallons per day (10% reduction) as part of the County-wide "20 Gallon Challenge." The Mayor continues to promote and emphasize the critical and ongoing need for increased water conservation in the City. The Mayor has, and will continue, to communicate the need for water conservation and opportunities to reduce water consumption for commercial, industrial and residential water customers throughout the City.

Through September 2008, consumption data indicates that City of San Diego customers have saved 6.3% over prior year's consumption, well short of the 10% goal. While both the Metropolitan Water District and the County Water Authority have reaffirmed their ability to meet projected demands through the end of Calendar Year 2008, it is clear that without additional significant conservation through the remainder of this year, the region's water supply will be increasingly strained.

In response to the supply situation, on July 27, 2008, the Mayor recommended and Council approved the Declaration of Water Emergency under the City's current Emergency Water Regulations. In addition, a Stage 1 – Water Watch – Voluntary Conservation was also enacted to formally request customers voluntarily modify their behaviors to conserve water. The City Water Department has continued to monitor and report on the status of conservation levels being attained. However, should more severe demand restrictions be necessary, the department has reviewed and is recommending amendments to the existing Emergency Water Regulations originally developed in 1991 in order to reflect improved analysis of water demand sensitivities, clarify demand target levels based upon supply availability, improve communication and improve the City's overall demand response program going forward.

County Water Authority Model Drought Ordinance

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 four different and specific demand reduction targets at the 10%, 20%, 40%, and greater than 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

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addition, the model ordinance provides language enabling agencies, should they choose, to implement water allocations for properties served by the agency. (See Attachment 2.)

The CWA intended that the model ordinance be considered for adoption by all its 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 of their customers. The CWA is coordinating a more systematic region-wide response in the event supply shortages develop. As of September 30, 11 of 24 regional water agencies had updated their existing drought ordinance, while the remaining agencies were still in the review process.

The Water Department has reviewed the elements encompassed within the Model Ordinance and has considered the impact on customers of the various proposed behavioral restrictions, enforcement mechanisms, and appeal process contained therein. As a result, and in light of the supply situation described above, the following amendments to the existing Water Emergency Regulations are being proposed.

Proposed Amendments to Municipal Code 67.3801 – 67.3811 Emergency Water Regulations

It is recommended that Sections 67.3801 – 67.3811 be replaced in its entirety with the new ordinance language proposed in Attachment 1. While initial desires were to modify and expand on the existing sections, as the review process developed it became clear that an entirely new section would be the best format by which changes in the City’s demand response program could be communicated to reviewers, stakeholders, and the public. In addition, given the effort under way to develop more consistent demand response programs County-wide utilizing the Model Ordinance as a framework, staff endeavored to adopt Model Ordinance language where practicable and where such language was consistent with the goals and objectives of the City of San Diego.

The following discussion identifies the key processes, behavioral restrictions, and/or implementation and enforcement efforts encompassed in the new language which differ from the current Municipal Code. The section numbers indicated refer to the sections found in Attachment 1.

Section 1.0 Declaration of Necessity and Intent

This new section provides general clarification regarding the purpose and general structure of the proposed new ordinance.

Section 2.0 Definitions

This new section provides definition for common terms used within the ordinance and avoids ambiguity present in the existing Municipal Code. “Customer” is more clearly defined, as well as the definition of “drought” expanded to include any shortage in supply based upon expected demands, whether from hydrological, environmental, legislative, or judicial actions.

Section 3.0 Water Waste Prohibitions

This new section provides for year-round water waste prohibitions. Many of the prohibited behaviors identified in this section were previously identified in Municipal Code Section 67.3806 – Water Conservation Stages. However, there has been some ambiguity regarding whether or not these behaviors could be enforced under the existing code without a formal declaration of water emergency under Section 67.3804. In order to eliminate this ambiguity, and, more importantly, to minimize wasteful use of water, this new section specifies behaviors that will be prohibited year-round, regardless of formal drought declaration.

Section 4.0 Application

This section provides more detailed language regarding the applicability of the proposed ordinance to water customers. The section specifically clarifies the ordinance's intent as the "furtherance of conservation" and not as a replacement of any federal, state or local statute relating to the protection of water quality or the control of drainage or runoff. In addition, the ability of the Mayor to declare a water emergency in the event of unforeseeable disaster such as earthquake, aqueduct break, or other major disruption is preserved.

Under Section (e), customers of the the MWD's Interim Agricultural Water Program, or other special supply programs, are exempted for the use of water within that program. Also exempted from the proposed ordinance is greywater, recycled water, and water from private wells. This is consistent with the existing Municipal Code.

Section 5.0 Drought Response Level 1 – Drought Watch Condition

This section is the first response level within the proposed new ordinance. Similar in nature to the current "Stage 1 – Water Watch," behavioral restrictions specified at this level are voluntary. However, a key distinction at this, and all drought response levels, is the triggering language for the declaration of this level.

As proposed, a Drought Response Level 1 would occur when there is a reasonable probability that, due to drought, there will be a supply shortage and that a consumer demand of up to 10% reduction is required to ensure that sufficient supplies will be available to meet anticipated demands. This language provides a much clear nexus between a Drought Response Level 1 and the percentage demand reduction necessary, something which is absent in the current municipal code.

It should be noted that the triggering language being proposed differs from the language encompassed in the CWA Model Ordinance. Where the proposed ordinance provides that the Mayor may recommend and, upon Resolution of the City Council, declare a Drought Response Level 1, the Model Ordinance specifically triggers a Level 1 response upon "Notification by CWA to its member agencies" that a demand reduction of 10% is necessary. It was felt that adoption of the Model Ordinance language would unduly limit the discretion of both the Mayor and Council regarding a given demand response level required. As such, the triggering language was re-cast to retain the criteria that needed to be met (i.e. a 10% demand reduction) while placing the authority for such determination with the Mayor and Council, not the County Water

Authority. This language modification was carried through to Drought Response Levels 2 – 4 as well.

Changes in previous behavioral restrictions imposed at this level include those associated with the timing of landscape watering and the hand washing of motive equipment (before 10 a.m. and after 6 p.m.). Also clarified is the requirement to repair all leaks upon discovery or within 5 days of notification by the City of San Diego.

Section 6.0 Drought Response Level 2 – Drought Alert Condition

A Level 2 drought response is triggered when a consumer demand reduction of up to 20% is required. Under a Level 2 response, all Level 1 behaviors are now mandatory. The language triggering a Level 2 response parallels that of Level 1 and the same modifications and distinctions vis-à-vis the Model Ordinance, discussed previously, apply.

Additional restrictions at Level 2 include the limiting of landscape irrigation to no more than three assigned days per week, June through October, and no more than one assigned day per week November through May. This seasonal deviation represents an attempt to modify watering restrictions based upon the lower water needs of plants and landscape during cooler months. Also, lawn watering is limited to no more than 10 minutes per irrigation system station per assigned day. The watering of trees and shrubs by hand or with the use of a soaker hose shall be limited to no more than 3 days per week. All leaks must be repaired within 72 hours. The operation of ornamental fountains will be prohibited, except to the extent needed for maintenance. Level 2 use restrictions will not apply to commercial growers or nurseries, nor to the watering of golf course tees and greens.

A significant addition in the proposed ordinance at Drought Response Levels 2 – 4 is language enabling the City to establish water allocations per customer account and to provide for penalties for over-consumption. While the details regarding how these potential allocations are established, monitored and enforced are not specified in either the CWA Model Ordinance or proposed amendments, these procedures will be brought before the Council for consideration and adoption as a separate action item.

This new water allocation enabling language was provided in the CWA Model Ordinance as an additional vehicle by which an agency could achieve the demand reduction targets required. It should be noted that the language does not require the establishment of water use allocations but merely provides for the possibility of establishing them should they be necessary and practicable. Also, while the Model Ordinance provides this enabling language at Levels 3 and 4, it is staff's recommendation to include this language in Level 2 as well in order to provide early opportunity to increase the likelihood of meeting demand reduction targets, thereby possibly avoiding the need to move to a higher and more restrictive demand response levels.

Section 7.0 Drought Response Level 3 – Drought Critical Condition

A Level 3 drought response is triggered when a consumer demand reduction of up to 40% is required. This language triggering a Level 3 response parallels that of Levels 1 and 2. The same modifications and distinctions vis-à-vis the Model Ordinance triggering language, discussed previously, apply.

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At Level 3, landscape irrigation is reduced to two assigned days per week June through October and one assigned day November through May. The filling of ornamental lakes and ponds is prohibited, except to sustain aquatic life of significant value. Repairs of leaks shall be done within 48 hours. Carwashing is prohibited except at carwashes using re-circulated water. Level 3 use restrictions will not apply to commercial nurseries or growers, or to golf course greens.

Significantly, at Level 3, no new potable water service will be provided, nor temporary or permanent meters issued, except under the following circumstances:

1. a valid building permit has been issued;
2. the project is necessary to protect the public's health, safety or welfare;
3. for fire hydrant meters, only upon the return of an old fire hydrant meter; or
4. the applicant for a new meter provides an enforceable commitment that the new water demands for the project will be offset prior to the provision of new water meter(s).

The water allocation enabling language previously discussed as part of Level 2 response is duplicated in Level 3.

Section 8.0 Drought Response Level 4 Drought Emergency

A drought response Level 4 is triggered upon declaration by the Mayor, and resolution of the Council, that a water shortage emergency exists pursuant to California Water Code Section 350, and upon a declaration that a demand reduction of greater than 40% is required in order to have maximum supplies available to meet demands.

At a Level 4 response, all landscape irrigation is stopped except for hand held watering of trees and shrubs two days a week; the maintenance of landscaping necessary for fire protection and erosion control; the watering of livestock; water for public works projects and actively irrigated environmental mitigation projects; and irrigation necessary for the maintenance of plant materials that are rare or essential to the well being of rare animals. The maintenance of parks and playing fields and golf course greens is also allowed under a two day a week schedule, as previously provided in Level 3.

California Water Code Section 350 provides for the declaration of water shortage emergency whenever the ordinary demands and requirement of water consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. (See Attachment 3 California Water Code Section 350-359.) This Code provides that, upon declaration of water emergency, the City shall establish such regulations and restrictions on the delivery and consumption of water "as will in the sound discretion of the [City] conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection." It is the intent of the proposed amendments that these Level 4 regulations and restrictions be generally outlined as part of the overall demand response program for the City. However, the proposed language will not prohibit the City from modifying or supplementing water use restrictions proposed in Level 4 should these be appropriate at the time of a Level 4 declaration.

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Section 9.0 Procedures for Determination and Notification of Drought Response Level

This section provides the framework for officially notifying the public of the existence of various drought response levels, as well as the effective date of the prohibitions outlined at each level. Generally, the mandatory restrictions provided in Level 2, 3, or 4 will take effect 10 days after the declaration of such a level, with publication of a notice of the resolution declaring such drought response level 5 days after such declaration. Any water allocations established by the City will be effective on the 5th day following the date of such notice, or at such later date as specified in the notice of such allocations.

Section 9.0 also provides that the City may declare an end to a Drought Response Level upon the recommendation of the Mayor and adoption by the Council at any regular or special meeting of the City Council.

Section 10.0 Hardship Variance

The existing Water Emergency Regulations do not specifically provide the ability for a customer to seek a variance from the restrictions outlined. This new Section 10 provides for such a process. The language being proposed outlines the specific provisions under which a customer can receive such a variance. Key provisions require: a finding of "undue hardship" that is disproportionate to the impacts of other similar water customers due to specific and unique circumstances; that the variance does not constitute a special privilege; a finding that no substantial detriment occurs to adjacent properties and will not materially affect the ability of the City to effectuate the purpose of the ordinance nor be detrimental to the public interest.

As proposed, applications for variance must be submitted in writing with all supporting documentation. The Mayor or his/her designee will act on the application within 30 days of submittal, with a written notification to the customer of any action taken.

Section 11.0 Violations and Penalties

The penalties called out in this final section remain substantively unchanged from the existing Municipal Code provisions, which provide for administrative and civil penalties pursuant to the general provisions governing violations of the Municipal Code. As discussed briefly above, penalties associated with water allocation over-consumption will be identified and approved separately as part of Council consideration of any proposed water allocation regulations.

General Considerations Regarding the Proposed Amendments

The water demand response plan encompassed in the proposed amendments represents a clearer and more aggressive approach towards achieving reductions in water consumption in times of supply shortage. While efforts were made to evaluate and mitigate as much as possible the impacts to all City of San Diego water customers, residents, business, and public institutions alike, it is clear that the proposed revisions do not, and in reality, cannot address all the varied end-uses of water which will be impacted. It is the case that most of the anticipated savings in water will come from a reduction in outdoor irrigation and as a result, most of the behavioral restrictions address such use. However, as proposed, there are restrictions that will effect commercial uses as well and the proposed amendments seek to balance the potential reductions

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likely to be achieved with the need to ensure all customer classes were contributing towards water reduction targets.

Finally, the proposed ordinance speaks only to behavioral restrictions, with only "enabling language" regarding water use allocations. As a result, these behavioral restrictions proposed do not necessarily ensure that reduction targets can be met. Indeed, while it is likely that water usage will be reduced, one could foresee a customer complying with the provisions of this proposed ordinance and still not achieve the specific level of demand reduction necessary. It is on this basis that the Water Department will provide, under separate report, its recommendation for the establishment of end user water consumption allocations, which can be monitored through the metering and billing processes. These allocations, in conjunction with the behavioral restrictions being proposed, provide the greatest likelihood that demand reduction targets can be achieved and thereby avoid further, more stringent, water use restrictions.

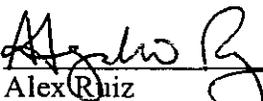
FISCAL CONSIDERATIONS:

None with this action. Implementation of drought response levels will require additional Water Department resources in order to achieve a given level of compliance. The extent of this resource requirement is not known at this time but will be identified as part on any mandatory water restriction or water allocations recommended by the Mayor and approved by Council.

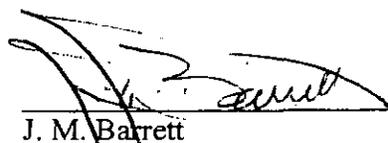
PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: The Mayor's Office has held community meetings in each Council District to discuss water supply issues impacting the City of San Diego and to discuss general provision of the proposed new water restrictions. Similar meetings have been held with members of the business community and the largest water consumers. Additional public education will occur upon approval of any changes in the existing Municipal Code.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: The implementation of the proposed revisions to the City's Emergency Water Regulations will affect all City of San Diego water customers.

 10/13/08

Alex Ruiz
Assistant Water Department Director

 10.15.08

J. M. Barrett
Public Utilities Director

- Attachments: 1. Proposed Ordinance Amending Chapter 6, Article 7 of the San Diego Municipal Code Relating to Water Use Restrictions and Drought Response Program
2. San Diego County Water Authority Model Drought Ordinance
3. California Water Code Section 350 – 359
4. Municipal Code Section 67.3801 – 67.3811

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ORDINANCE NO. O-_____ (NEW SERIES)**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 38, SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, 67.3811, and 67.3812 ADOPTING AN ORDINANCE RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE 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, reduced water use through conservation provides significant energy and other environmental benefits, can help protect water quality, and reduce greenhouse gas emissions; and

WHEREAS, improvements in technology and management practices offer the potential for increasing water conservation in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses; and

WHEREAS, growing population, climate change, and the need to protect California's fish and wildlife make it essential that the city manage its water resources as efficiently as possible; and

WHEREAS, water conservation is consistent with the City's 2008 General Plan Update; 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, provides 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 drought response program will allow the City of San Diego 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,

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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 City of San Diego. 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 San Diego County 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 four levels 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 levels; and

WHEREAS, the City of San Diego, 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; 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; and has adopted an Urban Water Management Plan which 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 City of San Diego; 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 City of San Diego 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 San Diego City Council 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 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

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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 3.0, 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 water supplies.

(c) Level 1 condition drought response 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 ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as provided in City of San Diego Administrative or Municipal Code.

SECTION 2.0 DEFINITIONS

(a) The following words and phrases whenever used in this chapter will 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. "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.

6. "Drought" will mean any shortage in water supply based upon expected

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demands that are caused by hydrological, environmental, legislative, judicial actions, or by infrastructure failure.

7. Unless otherwise specified, "Water" will refer to potable water.

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

9. Unless otherwise indicated "Days" are defined as Calendar Days.

SECTION 3.0 WATER WASTE PROHIBITIONS

The following restrictions will be in effect at all times:

1. A customer will not let water 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.
2. A customer will not fail to repair or stop a water leak.
3. 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.
4. A customer will not overfill swimming pools and spas.
5. A customer will not use non-recirculating decorative water fountains.
6. Vehicle washing can only be done in a commercial car wash or using a hose with an automatic shutoff nozzle or hand held container.
7. 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.
8. Restaurants and other food establishments will only serve and refill water upon request.
9. Guests in hotels, motels, and other commercial lodging establishments will be provided the option of not laundering towels and linens daily.

SECTION 4.0 APPLICATION

(a) The provisions of this ordinance apply to any customer in the use of any water provided by the City of San Diego.

(b) This ordinance 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.

(c) Nothing in this ordinance is intended to affect or limit the ability of the City of San Diego 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. The Mayor, or his designee, is authorized to implement the emergency provisions of sections 1.0 through 12.0. Public notice will follow enactment of said provision.

(d) The provisions of this ordinance do not apply to use of water from private wells or to recycled water, or the use of fully permitted greywater systems.

(e) Nothing in this ordinance will 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 ordinance in the use of that other water.

(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 Water Department: 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, a copy of which 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 full 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. 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.

SECTION 5.0 DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH CONDITION

(a) A Drought Response Level 1 condition is also referred to as a "Drought Watch" condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such declaration, the Mayor may take action to implement the Voluntary Level 1 conservation practices identified in this ordinance.

(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. Irrigate residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, only before 10 a.m. and after 6 p.m. except for renovation or repair of system with operator present.
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. Irrigate nursery and commercial grower's products only before 10 a.m. and after 6 p.m. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time.
4. The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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 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.
5. Customers will repair or stop all water leaks upon discovery or within five (5) days of notification by the City of San Diego.
6. Use recycled or non-potable water for construction purposes when available.
7. 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.
8. Construction operations receiving water from a fire hydrant meter or water truck will not use water beyond normal construction activities, consistent with Section 3.0 and that required by regulatory agencies. Construction projects requiring watering for new landscaping materials should adhere to the designated irrigation hours of before 10:00 a.m. and after 6:00 p.m.

SECTION 6.0 DROUGHT RESPONSE LEVEL 2 – DROUGHT ALERT CONDITION

(a) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. The Mayor 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% is

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required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 2, the Mayor shall take action to implement the Mandatory Level 2 conservation practices identified in this ordinance.

(b) All City of San Diego water customers will comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert, and will also comply with the following conservation measures:

1. Limit all landscape irrigation to no more than three (3) assigned days per week on a schedule established by the Mayor, or designee, and posted by the City of San Diego. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Mayor or designee and posted by the City of San Diego. This Section will not apply to commercial growers or nurseries, nor to the irrigation of golf course greens and tees.

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

3. Landscaped areas, including trees and shrubs not irrigated by a landscape irrigation system governed by 6(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.)

4. Repair or stop all leaks upon discovery or within seventy-two (72) hours of notification by the City of San Diego.

5. Stop operating ornamental fountains except to the extent needed for maintenance.

(c) The City of San Diego may establish a water allocation per customer account served by the City of San Diego. If the City of San Diego establishes a water allocation it will provide notice of the allocation. Following the effective date of the water allocation as established by the City of San Diego, any customer that uses water in excess of the allocation will be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 7.0 DROUGHT RESPONSE LEVEL 3 – DROUGHT CRITICAL CONDITION

(a) A Drought Response Level 3 condition is also referred to as a “Drought Critical” condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of drought response Level 3,

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the Mayor shall take action to implement the Mandatory Level 3 conservation practices identified in this ordinance.

(b) All City of San Diego water customers will comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices during a Level 3 Drought Critical condition and will also comply with the following additional mandatory conservation measures:

1. Limit all landscape irrigation to no more than two (2) assigned days per week on a schedule established by the Mayor or designee and posted by the City of San Diego. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Mayor or designee and posted by the City of San Diego. This Section will not apply to commercial growers or nurseries, nor to the irrigation of golf course greens.

2. 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.

3. Customers will repair or stop all water leaks upon discovery or within forty-eight (48) hours of notification by the City of San Diego.

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

(c) Upon the declaration of a Drought Response Level 3 condition requiring a 30% 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 following circumstances:

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 of San Diego 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.

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This provision will 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.

(d) Upon the declaration of a Drought Response Level 3 condition, City of San Diego will suspend consideration of annexations to its service area.

(e) The City of San Diego may establish or modify a water allocation per customer served by the City of San Diego Water Department. If the City of San Diego establishes a water allocation it will provide notice of the allocation. Following the effective date of the water allocation as established by the City of San Diego, any customer that uses water in excess of the allocation will be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 8.0 DROUGHT RESPONSE LEVEL 4 – DROUGHT EMERGENCY CONDITION

(a) A Drought Response Level 4 condition is also referred to as a “Drought Emergency” condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such resolution, the Mayor shall enter into Drought Response Level 4 and take action to implement the Mandatory Level 4 conservation practices identified in this ordinance and on the grounds provided in California Water Code Section 350.

(b) All customers using City of San Diego water will comply with conservation measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and will 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 will not apply to the following categories:

A. Maintenance of trees and shrubs that are watered no more than 2 assigned days per week on a schedule assigned by the Mayor or designee and posted by the City of San Diego, 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 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 (2) days per week according to the schedule established under Section 7(b)(1);

F. Watering of livestock; and

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

2. Customers will repair or stop all water leaks upon discovery or within twenty-four (24) hours of notification by the City of San Diego.

3. Stop filling or refilling residential pools and spas.

4. No new agreements will be entered into to provide water to customers or agencies outside of the City of San Diego.

5. The Mayor may implement additional measures which are necessary to ensure water availability for public health, safety, sanitation and fire suppression purposes.

SECTION 9.0 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 Mayor and resolution by 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 Mayor or designee will 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 City of San Diego. The City of San Diego may also post notice of the condition on their website.

The Water Department will monitor the projected supply and demand for water during periods of emergency or drought and will recommend to the Mayor or designee the extent of the conservation required. Thereafter, the Mayor will recommend to the City Council the implementation or termination of the appropriate Level of water conservation in accordance with the applicable provisions of Sections of this Municipal Code.

(b) The existence of Drought Response Level 2 or Level 3 conditions may be declared upon recommendation by the Mayor and resolution by the City Council. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions will 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 City of San Diego 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 a newspaper used for publication of official notices. If the City of San Diego establishes a water allocation, it will provide notice of the allocation. Water

allocation will be effective on the fifth (5) day following the date of the notice or at such later date as specified in the notice.

(c) The existence of a Drought Response Level 4 condition may be declared upon recommendation by the Mayor and resolution by 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 (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the City of San Diego will publish a notice giving the extent, terms and conditions respecting the use and consumption of water in a newspaper used for publication of official notices. If the City of San Diego establishes a water allocation, it will provide notice of the allocation. Water allocation will be effective on the fifth (5) day following the date of the notice 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 Mayor and resolution by the City Council at any regular or special City Council 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 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 a form prescribed by the City of San Diego and will be accompanied by a non-refundable processing fee in an amount set by resolution of the City of San Diego.

2. Supporting Documentation. The 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 Mayor or designee will exercise approval authority and act upon any completed application no later than 30 days 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. 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. 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:

A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego 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 City of San Diego 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.

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.

SECTION 11.0 VIOLATIONS AND PENALTIES

It will be unlawful for any customer, corporation or association to violate the provisions of this Municipal Code. Violations of these provisions will be a misdemeanor subject to penalties provided in San Diego Municipal Code Section 12.0201. The Water Department can alternatively seek injunctive relief in the Superior Court pursuant to San Diego Municipal Code Section 12.0202 or pursue any administrative remedy provided in Chapter 1. In addition to any other remedies which the Water Department may have for the enforcement of this Division, service of water will be discontinued or appropriately limited through the installation of flow-restricting devices to any customer who willfully uses water in violation of any provision of this Division.

If any provision, Section, Subsection, sentence, clause or phrase of this Municipal Code, or the application of same to any customer or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Municipal Code will not be affected, it being the intent of the City Council in adopting this Municipal Code that no portions, provisions, or regulations contained herein will become inoperative, or fail by

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reason of the unconstitutionality of any other provision hereof, and all provisions of this Municipal Code are declared to be severable for that purpose.

Code compliance officers/code compliance supervisors of The City of San Diego are hereby authorized, empowered and given the duty to enforce provisions of the San Diego Municipal Code and misdemeanors designated in the State Codes to issue citations for violations of said Codes under the provisions of Sections 836.5 and 853.6 of the Penal Code of the State of California when violations occur in the City of San Diego.

SECTION 12.0 EFFECTIVE DATE

This ordinance is effective immediately upon adoption or as otherwise established by State law for the City of San Diego.

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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 recirculate 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 NOTIFICATION 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 which 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

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**WATER CODE
SECTION 350-359**

350. The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

351. Excepting in event of a breakage or failure of a dam, pump, pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such water supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.

352. Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government Code at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the water supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.

353. When the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.

354. After allocating and setting aside the amount of water which in the opinion of the governing body will be necessary to supply water needed for domestic use, sanitation, and fire protection, the regulations may establish priorities in the use of water for other purposes and provide for the allocation, distribution, and delivery of water for such other purposes, without discrimination between consumers using water for the same purpose or purposes.

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355. The regulations and restrictions shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.

356. The regulations and restrictions may include the right to deny applications for new or additional service connections, and provision for their enforcement by discontinuing service to consumers wilfully violating the regulations and restrictions.

357. If the regulations and restrictions on delivery and consumption of water adopted pursuant to this chapter conflict with any law establishing the rights of individual consumers to receive either specific or proportionate amounts of the water supply available for distribution within such service area, the regulations and restrictions adopted pursuant to this chapter shall prevail over the provisions of such laws relating to water rights for the duration of the period of emergency; provided, however, that any distributor of water which is subject to regulation by the State Public Utilities Commission shall before making such regulations and restrictions effective secure the approval thereof by the Public Utilities Commission.

358. Nothing in this chapter shall be construed to prohibit or prevent review by any court of competent jurisdiction of any finding or determination by a governing board of the existence of an emergency or of regulations or restrictions adopted by such board, pursuant to this chapter, on the ground that any such action is fraudulent, arbitrary, or capricious.

359. (a) Notwithstanding any other provision of law that requires an election for the purpose of authorizing a contract with the United States, or for incurring the obligation to repay loans from the United States, and except as otherwise limited or prohibited by the California Constitution, a public water agency, as an alternative procedure to submitting the proposal to an election, upon affirmative vote of four-fifths of the members of the governing body thereof, may apply for, accept, provide for the repayment together with interest thereon, and use funds made available by the federal government pursuant to Public Law 95-18, pursuant to any other federal act subsequently enacted during 1977 that specifically provides emergency drought relief financing, or pursuant to existing federal relief programs receiving budget augmentations in 1977 for drought assistance, and may enter into contracts that are required to obtain those federal funds pursuant to the provisions of those federal acts if the following conditions exist:

(1) The project is undertaken by a state, regional, or local governmental agency.

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(2) As a result of the severe drought now existing in many parts of the state, the agency has insufficient water supply needed to meet necessary agricultural, domestic, industrial, recreational, and fish and wildlife needs within the service area or area of jurisdiction of the agency.

(3) The project will develop or conserve water before October 31, 1978, and will assist in mitigating the impacts of the drought.

(4) The agency affirms that it will comply, if applicable, with Sections 1602, 1603, and 1605 of the Fish and Game Code.

(5) The project will be completed on or before the completion date, if any, required under the federal act providing the funding, but not later than March 1, 1978.

(b) Any obligation to repay loans shall be expressly limited to revenues of the system improved by the proceeds of the contract.

(c) No application for federal funds pursuant to this section shall be made on or after March 1, 1978.

(d) Notwithstanding the provisions of this section, a public agency shall not be exempt from any provision of law that requires the submission of a proposal to an election if a petition requesting such an election signed by 10 percent of the registered voters within the public agency is presented to the governing board within 30 days following the submission of an application for federal funds.

(e) Notwithstanding the provisions of this section, a public water agency that applied for federal funds for a project before January 1, 1978, may make application to the Director of the Drought Emergency Task Force for extension of the required completion date specified in paragraph (5) of subdivision (b). Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in paragraph (5) of subdivision (b) to a date not later than September 30, 1978, if the director finds that the project has been delayed by factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

(f) For the purposes of this section, "public water agency" means a city, district, agency, authority, or any other political subdivision of the state, except the state, that distributes water to the inhabitants thereof, is otherwise authorized by law to enter into contracts or agreements with the federal government for a water supply or for financing facilities for a water supply, and is otherwise required by law to submit those agreements or contracts or any other project involving long-term debt to an election within that public water agency.

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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 Emergency**

That the City Manager be, and he is hereby authorized to determine and declare that a water shortage emergency exists in any and/or all parts of The City of San Diego, and upon such determination, to promulgate such regulations, rules and conditions relative to the time of using water, the purpose or purposes for which it may be used, and such other necessary limitations as will, in his opinion, relieve the water shortage in any such section or sections of The City.

(Renumbered from Sec. 67.38 and retitled to "Declaration of Emergency" on 10-19-1998 by O-18596 N.S.)

§67.3802 Comprehensive Water Conservation Plan

There is hereby established a City of San Diego Comprehensive Water Conservation Plan.

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

§67.3803 Declaration of Policy

The City Council, by and through its Water Department, finds and determines that a water shortage could exist based upon the occurrence of one or more of the following conditions:

- (a) A general water supply shortage due to increased demand or limited supply.
- (b) Distribution or storage facilities of the Metropolitan Water District of Southern California, the San Diego County Water Authority, or the City of San Diego become inadequate.
- (c) A disruption of the supply, storage and distribution facilities of the Metropolitan Water District of Southern California, the San Diego County Water Authority, or the City of San Diego occurs.

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It is hereby declared that, because of the conditions prevailing in the City of San Diego, the general welfare requires that the City maximize the beneficial use of its available water resources to the extent to which they are capable, and that the waste or unreasonable use, or unreasonable method of use of water be prevented and the conservation of such water is to be extended with a view to the reasonable and beneficial use thereof in the interests of the people of the City of San Diego and for the public welfare.

(Renumbered from Sec. 67.38.2 and amended 10-19-1998 by O-18596 N.S.)

§67.3804 Authority to Implement Water Conservation Stages

The City Manager, or his designee, upon the recommendation of the Director of the Water Department, and following public notice, is authorized and directed to implement the applicable provisions of sections 67.3801 through 67.38.11, upon his determination that such implementation is necessary to protect the public welfare and safety under the following conditions:

- (a) In the event of an unforeseeable disaster or water emergency such as an earthquake, aqueduct break, or other major disruption in the water supply, the City Manager, or his designee, is authorized to implement the emergency provisions of sections 67.3801 through 67.38.11. Public notice will follow enactment of said provision.
- (b) In the event of a foreseeable water emergency such as extended drought conditions, the City Manager, or his designee, is authorized to implement the applicable provisions of sections 67.3801 through 67.38.11 as provided herein, after holding a public hearing before the City Council.

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

§67.3805 Application

- (a) The provisions of Sections 67.3801 through 67.38.11 shall apply to all persons, customers and property served by the Water Department wherever situated; except as provided in section 67.3805(b).
- (b) The use of potable water for industrial manufacturing, processing, or research and development is exempt from the provisions of section 67.3806(d), if all of the following conditions are met: 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, a copy of which is on file with the

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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 full 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. 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. 67.38.4 and amended 10-19-1998 by O-18596 N.S.)

§67.3806 Water Conservation Stages

It is unlawful for any customer of The City of San Diego Water Department to make, cause, use or permit the use of water from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of Sections 67.3801 through 67.38.11, or in an amount in excess of that use permitted by the following conservation stages which are in effect pursuant to action taken by the City Manager, or his designee, in accordance with the provisions of sections 67.3801 through 67.38.11. It is unlawful for any person to waste water or to use it unreasonably.

- (a) Unreasonable uses of water shall include, but are not limited to, the following practices:
- (1) A customer shall not let water leave the customer's property by drainage onto adjacent properties or public or private roadways or streets due to excessive irrigation and/or uncorrected leaks.
 - (2) A customer will not fail to repair a water leak.
 - (3) A customer will not use water to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate safety or sanitation hazards.

The following stages shall take effect upon declaration as herein provided.

- (b) Stage 1. Voluntary Compliance - Water Watch.

Stage 1 applies during periods when the possibility exists that the City of San Diego Water Department will not be able to meet all of the water demands of

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its customers. All elements of Stage 2 shall during Stage 1 apply on a voluntary basis only.

(c) Stage 2. Mandatory Compliance - Water Alert.

Stage 2 applies during periods when the probability exists that the City of San Diego Water Utilities Department will not be able to meet all of the water demands of its customers.

Upon implementation by the City Manager and publication of notice, the following water conservation measures shall apply to except when reclaimed water is used:

- (1) Lawn watering and landscape irrigation, including construction meter irrigation, is permitted only during designated hours on designated days. Watering is permitted at any time if:
 - (A) a hand-held hose equipped with a positive shut-off nozzle is used, or
 - (B) a hand-held container is used, or
 - (C) a drip irrigation system is used.

Commercial nurseries, commercial sod farms and similarly situated establishments are exempt from Stage 2 irrigation restrictions but will be required to curtail all nonessential water use.

- (2) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment, is permitted at any time with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses.

Washing may be done at any time on the immediate premises of a commercial car wash or commercial service station, or by a mobile car wash or on-site car wash using high pressure washing equipment. Further, such washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food and perishables.

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- (3) The overfilling of swimming pools, spas, ponds and artificial lakes is prohibited.
- (4) Irrigation of golf courses, parks, school grounds and recreation fields is permitted only during designated hours on designated days.
- (5) Use of water from fire hydrants shall be limited to fire fighting, related activities or other activities necessary to maintain the health, safety and welfare of the citizens of San Diego.
- (6) All restaurants are prohibited from serving water to their customers except when specifically requested by the customers.
- (7) Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire or sanitation hazards.
- (8) Ornamental fountains may operate if they recirculate water. Ornamental fountains that do not recycle water are prohibited.
- (9) Construction operations receiving water from a construction meter or water truck shall not use water unnecessarily for any purposes other than those required by regulatory agencies. Construction projects requiring watering for new landscaping materials should adhere to the designated irrigation hours associated with subsection (1) of State 2.

(d) Stage 3. Mandatory Compliance - Water Warning.

Stage 3 applies during periods when the City of San Diego Water Utilities Department will not be able to meet all of the water demands of its customers. Upon implementation by the City Manager and publication of notice, the following water conservation measures shall apply except when reclaimed water is used:

- (1) Lawn watering and landscape irrigation, including with a hand-held hose equipped with a positive shut-off nozzle, is permitted only during designated hours on designated days. Watering is permitted at any hour, on any day, if a hand-held container or drip irrigation system is used.

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- (2) Commercial nurseries shall reduce water use by an amount determined by the City Council.
- (3) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only during designated hours on designated days with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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 not using partially reclaimed or recycled water shall be reduced in volume by an amount determined by the City Council. Further, such washings are exempt from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food and perishables.
- (4) The overfilling of swimming pools and spas is prohibited. The filling or refilling of ponds and artificial lakes is prohibited.
- (5) Watering golf courses, parks, school grounds and recreation fields is permitted only during designated hours on designated days, except golf course greens.
- (6) Use of water from fire hydrants shall be limited to fire fighting or other activities immediately necessary to maintaining the health, safety and welfare of the citizens of San Diego.
- (7) All restaurants are prohibited from serving water to their customers except when specifically requested by the customers.
- (8) Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire or sanitation hazards.
- (9) The operation of any ornamental fountain or similar structure is prohibited except for short periods of time to prevent damage.
- (10) The number of new construction meters shall not exceed the existing number of currently authorized meters. A new meter shall be issued only when an old meter is returned. Construction projects requiring water from a construction meter or a water truck shall not use water unnecessarily for any purposes other than those required by regulatory

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agencies. Construction projects requiring water for new landscapes shall adhere to the designated days and times as set forth in subsection (1) of Stage 2. Further, construction projects necessary to maintaining the health, safety and welfare of the public are exempt from these regulations.

- (11) The use of water for commercial manufacturing or processing purposes shall be reduced in volume by an amount determined by the City Council. This provision does not apply to businesses which are exempt from water use restrictions pursuant to section 67.3805(b).

(e) Stage 4. Mandatory Compliance - Water Emergency

Stage 4 applies when a major failure of any supply or distribution facility, whether temporary or permanent, occurs in the water distribution system of the State Water Project, Metropolitan Water District, San Diego County Water Authority, or City of San Diego water facilities.

Upon implementation by the City Manager and publication of notice, the following measures shall apply except when reclaimed water is used:

- (1) All outdoor irrigation of turf and ground covers is prohibited with the exception of plant materials classified to be rare, exceptionally valuable or essential to the well being of the public at large or rare animals. Irrigation of trees and shrubs is permitted only by hand-held hose equipped with a positive shut-off nozzle, hand-held container, or drip irrigation system. Greywater may be used in accordance with Health Department regulations to irrigate fruit trees, ground covers and ornamental trees and shrubs. Greywater is defined as household wastewater other than toilet waste.
- (2) The use of water at commercial nurseries, commercial sod farmers and similarly situated establishments shall be reduced in volume by an amount determined by the City Council. Greywater may be used in accordance with Health Department regulations to irrigate fruit trees, ground covers and ornamental trees and shrubs.
- (3) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is prohibited. The use of water by all types of commercial car washes or commercial vehicle service stations and not in the immediate interest of the public health, safety and welfare

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shall be reduced in volume by an amount determined by the City Council. Further, such washings are exempt from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings such as garbage trucks and vehicles used to transport food and perishables.

- (4) The filling, refilling or adding of water to swimming pools, spas, ponds and artificial lakes is prohibited.
- (5) The watering of all golf course areas, except greens, is prohibited.
- (6) Use of water from fire hydrants shall be limited to fire fighting or other activities immediately necessary to maintain the health, safety and welfare of the citizens of San Diego.
- (7) All Restaurants are prohibited from serving water to their customers except when specifically requested by the customers.
- (8) Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire or sanitation hazards.
- (9) The operation of any ornamental fountain or similar structure is prohibited except for short periods of time to prevent damage.
- (10) The use of water for commercial, manufacturing or processing purposes shall be reduced in volume by an amount determined by the City Council.
- (11) All sales of non-reclaimed water outside of the City limits shall be discontinued, with the exception of sales previously approved by the City Council.
- (12) No new construction meters will be issued. Construction water shall not be used for earth work or road construction purposes. Construction projects necessary to maintaining the health, safety and welfare of the public are exempt from these regulations.
- (13) Except as to property for which a building permit has been heretofore issued, no new building permit(s) shall be provided, except in the following circumstances:

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- (A) For projects necessary to protect the public's health, safety, and welfare;
 - (B) When using reclaimed water;
 - (C) When the recipient of the building permit can demonstrate that no net increase in water use will occur; or
 - (D) Where the recipient of the building permit provides a conservation offset. For purposes of the section, "conservation offset" shall mean the implementation of proven conservation techniques which, when installed, will result in a reduction equal to demand of the proposed use. A conservation offset may be effected by paying a fee established by the City Manager or his designee to the City Treasurer in an amount necessary to cover the cost of implementing such conservation techniques. The fee will be based on the conservation offset required for an equivalent dwelling unit. Such fee shall apply to residential as well as commercial and industrial buildings, and may be adjusted from time to time as determined by the City Manager or his designee.
- (14) Stage 4 unless sooner terminated by the City Council, shall terminate September 30, 1991, unless prior to said date the Council acts to extend it.

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

§67.3807

Mandatory Conservation Phase Implementation

The Water Department shall monitor the projected supply and demand for water, by its customers, on a daily basis during periods of emergency or drought and shall recommend to the City Manager the extent of the conservation required through the implementation and/or termination of particular conservation stages to prudently plan and supply water to its customers. Thereafter, the City Manager may order the implementation or termination of the appropriate phase of water conservation in accordance with the applicable provisions of sections 67.3801 through 67.38.11. The declaration of any stage beyond Stage 1 shall be made by public announcement and shall be published a minimum of one (1) time for three (3) consecutive days in a daily newspaper of general circulation. The stage designated shall become effective immediately upon announcement.

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

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§67.3808 Penalty

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It shall be unlawful for any person, corporation or association to violate the provisions of Sections 67.3801 through 67.38.11. Violations of these provisions shall be a misdemeanor subject to penalties provided in San Diego Municipal Code section 12.0201. The Water Department can alternatively seek injunctive relief in the Superior Court pursuant to San Diego Municipal Code section 12.0202 or pursue any administrative remedy provided in Chapter 1. In addition to any other remedies which the Water Department may have for the enforcement of this Division, service of water shall be discontinued or appropriately limited to any customer who willfully uses water in violation of any provision of this Division.

(Renumbered from Sec. 67.38.7 and amended 10-19-1998 by O-18596 N.S.)

§67.3809 Severability

If any provision, section, subsection, sentence, clause or phrase of sections 67.3801 through 67.38.11, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of sections 67.3801 through 67.38.11 shall not be affected, it being the intent of the City Council in adopting Sections 67.3801 through 67.38.11 that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of sections 67.3801 through 67.38.11 are declared to be severable for that purpose.

(Renumbered from Sec. 67.38.8 and amended 10-19-1998 by O-18596 N.S.)

§67.3810 Citations

Code compliance officers/code compliance supervisors of The City of San Diego are hereby authorized, empowered and given the duty to enforce provisions of the San Diego Municipal Code and misdemeanors designated in the State Codes to issue citations for violations of said Codes under the provisions of Sections 836.5 and 853.6 of the Penal Code of the State of California when violations occur in the City of San Diego.

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

§67.3811 Publication of Terms of Water Use

That upon such emergency declaration by the City Manager, it shall be his duty to have public notice given by publishing a notice giving the extent, terms and conditions respecting the use and consumption of water, at least once in the official newspaper of said City; that upon such declaration and publication of such notice due and proper

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notice shall be deemed to have been given each and every consumer supplied with water by The City of San Diego.

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

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ORDINANCE NO. O-_____ (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 38, SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, 67.3811, and 67.3812 ADOPTING AN ORDINANCE RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE 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, reduced water use through conservation provides significant energy and other environmental benefits, can help protect water quality, and reduce greenhouse gas emissions; and

WHEREAS, improvements in technology and management practices offer the potential for increasing water conservation in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses; and

WHEREAS, growing population, climate change, and the need to protect California's fish and wildlife make it essential that the city manage its water resources as efficiently as possible; and

WHEREAS, water conservation is consistent with the City's 2008 General Plan Update; 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, provides 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 drought response program will allow the City of San Diego 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,

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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 City of San Diego. 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 San Diego County 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 four levels 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 levels; and

WHEREAS, the City of San Diego, 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; 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; and has adopted an Urban Water Management Plan which 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 City of San Diego; 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 City of San Diego 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 San Diego City Council 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 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 3.0, 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 water supplies.

(c) Level 1 condition drought response 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 ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as provided in City of San Diego Administrative or Municipal Code.

SECTION 2.0 DEFINITIONS

(a) The following words and phrases whenever used in this chapter will 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. "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.

6. "Drought" will mean any shortage in water supply based upon expected

demands that are caused by hydrological, environmental, legislative, judicial actions, or by infrastructure failure.

7. Unless otherwise specified, "Water" will refer to potable water.

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

9. Unless otherwise indicated "Days" are defined as Calendar Days.

SECTION 3.0 WATER WASTE PROHIBITIONS

The following restrictions will be in effect at all times:

1. A customer will not let water 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.
2. A customer will not fail to repair or stop a water leak.
3. 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.
4. A customer will not overfill swimming pools and spas.
5. A customer will not use non-recirculating decorative water fountains.
6. Vehicle washing can only be done in a commercial car wash or using a hose with an automatic shutoff nozzle or hand held container.
7. 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.
8. Restaurants and other food establishments will only serve and refill water upon request.
9. Guests in hotels, motels, and other commercial lodging establishments will be provided the option of not laundering towels and linens daily.

SECTION 4.0 APPLICATION

(a) The provisions of this ordinance apply to any customer in the use of any water provided by the City of San Diego.

(b) This ordinance 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.

(c) Nothing in this ordinance is intended to affect or limit the ability of the City of San Diego 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. The Mayor, or his designee, is authorized to implement the emergency provisions of sections 1.0 through 12.0. Public notice will follow enactment of said provision.

(d) The provisions of this ordinance do not apply to use of water from private wells or to recycled water, or the use of fully permitted greywater systems.

(e) Nothing in this ordinance will 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 ordinance in the use of that other water.

(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 Water Department: 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, a copy of which 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 full 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. 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.

SECTION 5.0 DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH CONDITION

(a) A Drought Response Level 1 condition is also referred to as a "Drought Watch" condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such declaration, the Mayor may take action to implement the Voluntary Level 1 conservation practices identified in this ordinance.

(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.

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1. Irrigate residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, only before 10 a.m. and after 6 p.m. except for renovation or repair of system with operator present.
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. Irrigate nursery and commercial grower's products only before 10 a.m. and after 6 p.m. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time.
4. The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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 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.
5. Customers will repair or stop all water leaks upon discovery or within five (5) days of notification by the City of San Diego.
6. Use recycled or non-potable water for construction purposes when available.
7. 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.
8. Construction operations receiving water from a fire hydrant meter or water truck will not use water beyond normal construction activities, consistent with Section 3.0 and that required by regulatory agencies. Construction projects requiring watering for new landscaping materials should adhere to the designated irrigation hours of before 10:00 a.m. and after 6:00 p.m.

SECTION 6.0 DROUGHT RESPONSE LEVEL 2 – DROUGHT ALERT CONDITION

(a) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. The Mayor 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% is

required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 2, the Mayor shall take action to implement the Mandatory Level 2 conservation practices identified in this ordinance.

(b) All City of San Diego water customers will comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert, and will also comply with the following conservation measures:

1. Limit all landscape irrigation to no more than three (3) assigned days per week on a schedule established by the Mayor, or designee, and posted by the City of San Diego. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Mayor or designee and posted by the City of San Diego. This Section will not apply to commercial growers or nurseries, nor to the irrigation of golf course greens and tees.

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

3. Landscaped areas, including trees and shrubs not irrigated by a landscape irrigation system governed by 6(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.)

4. Repair or stop all leaks upon discovery or within seventy-two (72) hours of notification by the City of San Diego.

5. Stop operating ornamental fountains except to the extent needed for maintenance.

(c) The Mayor may recommend and, upon resolution of Council, implement water allocations per customer account served by the City of San Diego. If the City of San Diego establishes a water allocation it will provide notice of the allocation. Following the effective date of the water allocation as established by the City of San Diego, any customer that uses water in excess of the allocation will be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 7.0 DROUGHT RESPONSE LEVEL 3 – DROUGHT CRITICAL CONDITION

(a) A Drought Response Level 3 condition is also referred to as a “Drought Critical” condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of drought response Level 3,

the Mayor shall take action to implement the Mandatory Level 3 conservation practices identified in this ordinance.

(b) All City of San Diego water customers will comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices during a Level 3 Drought Critical condition and will also comply with the following additional mandatory conservation measures:

1. Limit all landscape irrigation to no more than two (2) assigned days per week on a schedule established by the Mayor or designee and posted by the City of San Diego. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Mayor or designee and posted by the City of San Diego. This Section will not apply to commercial growers or nurseries, nor to the irrigation of golf course greens.

2. 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.

3. Customers will repair or stop all water leaks upon discovery or within forty-eight (48) hours of notification by the City of San Diego.

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

(c) Upon the declaration of a Drought Response Level 3 condition requiring a 30% 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 following circumstances:

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 of San Diego 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.

This provision will 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.

(d) Upon the declaration of a Drought Response Level 3 condition, City of San Diego will suspend consideration of annexations to its service area.

(e) The Mayor may recommend and, upon resolution of Council, implement or modify water allocations per customer served by the City of San Diego Water Department. If the City of San Diego establishes a water allocation it will provide notice of the allocation. Following the effective date of the water allocation as established by the City of San Diego, any customer that uses water in excess of the allocation will be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 8.0 DROUGHT RESPONSE LEVEL 4 – DROUGHT EMERGENCY CONDITION

(a) A Drought Response Level 4 condition is also referred to as a “Drought Emergency” condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such resolution, the Mayor shall enter into Drought Response Level 4 and take action to implement the Mandatory Level 4 conservation practices identified in this ordinance and on the grounds provided in California Water Code Section 350.

(b) All customers using City of San Diego water will comply with conservation measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and will 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 will not apply to the following categories:

A. Maintenance of trees and shrubs that are watered no more than 2 assigned days per week on a schedule assigned by the Mayor or designee and posted by the City of San Diego, 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 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 (2) days per week according to the schedule established under Section 7(b)(1);

F. Watering of livestock; and

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

2. Customers will repair or stop all water leaks upon discovery or within twenty-four (24) hours of notification by the City of San Diego.

3. Stop filling or refilling residential pools and spas.

4. No new agreements will be entered into to provide water to customers or agencies outside of the City of San Diego.

5. The Mayor may implement additional measures which are necessary to ensure water availability for public health, safety, sanitation and fire suppression purposes.

SECTION 9.0 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 Mayor and resolution by 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 Mayor or designee will 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 City of San Diego. The City of San Diego may also post notice of the condition on their website.

The Water Department will monitor the projected supply and demand for water during periods of emergency or drought and will recommend to the Mayor or designee the extent of the conservation required. Thereafter, the Mayor will recommend to the City Council the implementation or termination of the appropriate Level of water conservation in accordance with the applicable provisions of Sections of this Municipal Code.

(b) The existence of Drought Response Level 2 or Level 3 conditions may be declared upon recommendation by the Mayor and resolution by the City Council. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions will 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 City of San Diego 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 a newspaper used for publication of official notices. If the City of San Diego establishes a water allocation, it will provide notice of the allocation. Water

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allocation will be effective on the fifth (5) day following the date of the notice or at such later date as specified in the notice.

(c) The existence of a Drought Response Level 4 condition may be declared upon recommendation by the Mayor and resolution by 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 (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the City of San Diego will publish a notice giving the extent, terms and conditions respecting the use and consumption of water in a newspaper used for publication of official notices. If the City of San Diego establishes a water allocation, it will provide notice of the allocation. Water allocation will be effective on the fifth (5) day following the date of the notice 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 Mayor and resolution by the City Council at any regular or special City Council 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 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 a form prescribed by the City of San Diego and will be accompanied by a non-refundable processing fee in an amount set by resolution of the City of San Diego.

2. Supporting Documentation. The 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 Mayor or designee will exercise approval authority and act upon any completed application no later than 30 days 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. 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. 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:

A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego 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 City of San Diego 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.

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.

SECTION 11.0 VIOLATIONS AND PENALTIES

It will be unlawful for any customer, corporation or association to violate the provisions of this Municipal Code. Violations of these provisions will be a misdemeanor subject to penalties provided in San Diego Municipal Code Section 12.0201. The Water Department can alternatively seek injunctive relief in the Superior Court pursuant to San Diego Municipal Code Section 12.0202 or pursue any administrative remedy provided in Chapter 1. In addition to any other remedies which the Water Department may have for the enforcement of this Division, service of water will be discontinued or appropriately limited through the installation of flow-restricting devices to any customer who willfully uses water in violation of any provision of this Division.

If any provision, Section, Subsection, sentence, clause or phrase of this Municipal Code, or the application of same to any customer or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Municipal Code will not be affected, it being the intent of the City Council in adopting this Municipal Code that no portions, provisions, or regulations contained herein will become inoperative, or fail by

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reason of the unconstitutionality of any other provision hereof, and all provisions of this Municipal Code are declared to be severable for that purpose.

Code compliance officers/code compliance supervisors of The City of San Diego are hereby authorized, empowered and given the duty to enforce provisions of the San Diego Municipal Code and misdemeanors designated in the State Codes to issue citations for violations of said Codes under the provisions of Sections 836.5 and 853.6 of the Penal Code of the State of California when violations occur in the City of San Diego.

SECTION 12.0 EFFECTIVE DATE

This ordinance is effective immediately upon adoption or as otherwise established by State law for the City of San Diego.

Should the City of San Diego have declared a Water Emergency and enacted a Stage 1 Voluntary Compliance - Water Watch under the provisions of Municipal Code Section 67.3801 – 67.3811 at the time of the effective date of this ordinance, the City shall be deemed to be in a Drought Response Level 1 – Drought Watch Condition as herein provided on the effective date of this new ordinance. The City shall notice the requirements of Drought Response Level 1 by publishing a notice of the existence of a Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the City of San Diego. The City of San Diego may also post notice of the condition on their website.

-- END---

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THE CITY OF SAN DIEGO

RECEIVED

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CITY CLERK'S OFFICE
SAN DIEGO, CA

MEMORANDUM

DATE: November 10, 2008

TO: Honorable City Council

FROM: Alex Ruiz, Assistant Director, Water Department

SUBJECT: Amendments to the Municipal Code – Emergency Water Regulations

Attached please find the final ordinance prepared by the City Attorney's Office amending the City's water use restrictions. This attachment places in proper legal format the "plain text" version distributed to Council on Friday, November 7, 2008¹. In preparing the final ordinance format, the City Attorney's Office has proposed non-substantive edits for clarity and for consistency with Municipal Code format, style, and grammar. Such edits include the following:

- Changing the reference to "Mayor" to "City Manager" in order to be consistent with Municipal Code provisions overall
- Renumbering ordinance sections to reflect their proposed final location in the code
- Changing reference to "ordinance" to "division" (i.e. "this ordinance" changed to "this division" of the code)
- Re-ordering the section which defines terms in order to place the terms in alphabetical order.
- Where the prior version of the ordinance used the term "will" to indicate a compulsion to perform, the final version uses the term "shall", as in "...water customers... *shall* comply with the following conservation measures."
- The phrase "penalties" has been revised to "*surcharges or penalties*" to allow the Mayor and City Council clearer latitude in developing a water allocation program

In addition, there has been a modification to the language allowing the refilling of ponds or lakes when needed to sustain aquatic life of "significant value". This has been modified to allow the filling of lakes or ponds when needed to sustain plants or animals that have been actively managed within the water feature prior to a drought declaration. It is felt that the definition of "significant value" was too ambiguous for enforcement and as a result it has been eliminated.

¹ Drought Ordinance V21 11.07.08.pdf (attached)

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These edits have been reviewed by the Water Department and we agree that they provide greater clarity and consistency, and allow for more efficient enforcement activities. The Water Department supports these changes.

We appreciate the opportunity to provide these edits which reflect additional input in the design and content to the draft ordinance. Such input helps to ensure a more effective drought response program and less ambiguity for water customers.

Should you have further questions, please contact me at (619) 533-6692.



Alex Ruiz

Assistant Director, Water Department

- Attachment: 1) Final Ordinance (CAO Digest Version) (O-2009-59)
2) Drought Ordinance V21 11.07.08

000211

ORDINANCE NO. O-_____ (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 38, SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, 67.3811, and 67.3812 ADOPTING AN ORDINANCE RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE 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, reduced water use through conservation provides significant energy and other environmental benefits, can help protect water quality, and reduce greenhouse gas emissions; and

WHEREAS, improvements in technology and management practices offer the potential for increasing water conservation in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses; and

WHEREAS, growing population, climate change, and the need to protect California's fish and wildlife make it essential that the city manage its water resources as efficiently as possible; and

WHEREAS, water conservation is consistent with the City's 2008 General Plan Update; 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, provides 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 drought response program will allow the City of San Diego 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

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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 City of San Diego. 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 San Diego County 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 four levels 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 levels; and

WHEREAS, the City of San Diego, 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; 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; and has adopted an Urban Water Management Plan which 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 City of San Diego; 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 City of San Diego 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 San Diego City Council 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 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.

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(b) In addition to the general provisions of Section 3.0, 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 water supplies.

(c) Level 1 condition drought response 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 ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as provided in City of San Diego Administrative or Municipal Code.

SECTION 2.0 DEFINITIONS

(a) The following words and phrases whenever used in this chapter will 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. "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.

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

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7. Unless otherwise specified, "Water" will refer to potable water.

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

9. Unless otherwise indicated "Days" are defined as Calendar Days.

SECTION 3.0 WATER WASTE PROHIBITIONS

The following restrictions will be in effect at all times:

1. A customer will not let water 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.
2. A customer will not fail to repair or stop a water leak.
3. 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.
4. A customer will not overfill swimming pools and spas.
5. A customer will not use non-recirculating decorative water fountains.
6. Vehicle washing can only be done in a commercial car wash or using a hose with an automatic shutoff nozzle or hand held container.
7. 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.
8. Restaurants and other food establishments will only serve and refill water upon request.
9. Guests in hotels, motels, and other commercial lodging establishments will be provided the option of not laundering towels and linens daily.

SECTION 4.0 APPLICATION

(a) The provisions of this ordinance apply to any customer in the use of any water provided by the City of San Diego.

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(b) This ordinance 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.

(c) Nothing in this ordinance is intended to affect or limit the ability of the City of San Diego 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. The Mayor, or his designee, is authorized to implement the emergency provisions of sections 1.0 through 12.0. Public notice will follow enactment of said provision.

(d) The provisions of this ordinance do not apply to use of water from private wells or to recycled water, or the use of fully permitted greywater systems.

(e) Nothing in this ordinance will 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 ordinance in the use of that other water.

(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 Water Department: 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, a copy of which 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 full 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. 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.

SECTION 5.0 DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH CONDITION

(a) A Drought Response Level 1 condition is also referred to as a "Drought Watch" condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such declaration, the Mayor may take action to implement the Voluntary Level 1 conservation practices identified in this ordinance.

(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.

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1. Irrigate residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, only before 10 a.m. and after 6 p.m. except for renovation or repair of system with operator present.

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

4. The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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 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.

5. Customers will repair or stop all water leaks upon discovery or within five (5) days of notification by the City of San Diego.

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

7. 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.

8. Construction operations receiving water from a fire hydrant meter or water truck will not use water beyond normal construction activities, consistent with Section 3.0 and that required by regulatory agencies. Construction projects requiring watering for new landscaping materials should adhere to the designated irrigation hours of before 10:00 a.m. and after 6:00 p.m.

SECTION 6.0 DROUGHT RESPONSE LEVEL 2 - DROUGHT ALERT CONDITION

(a) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. The Mayor 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% is

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required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 2, the Mayor shall take action to implement the Mandatory Level 2 conservation practices identified in this ordinance.

(b) All City of San Diego water customers will comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert, and will also comply with the following conservation measures:

1. Limit all landscape irrigation to no more than three (3) assigned days per week on a schedule established by the Mayor, or designee, and posted by the City of San Diego. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Mayor or designee and posted by the City of San Diego. This Section will not apply to commercial growers or nurseries, nor to the irrigation of golf course greens and tees.

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

3. Landscaped areas, including trees and shrubs not irrigated by a landscape irrigation system governed by 6(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.)

4. Repair or stop all leaks upon discovery or within seventy-two (72) hours of notification by the City of San Diego.

5. Stop operating ornamental fountains except to the extent needed for maintenance.

(c) The Mayor may recommend and, upon resolution of Council, implement water allocations per customer account served by the City of San Diego. If the City of San Diego establishes a water allocation it will provide notice of the allocation. Following the effective date of the water allocation as established by the City of San Diego, any customer that uses water in excess of the allocation will be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this ordinance. If allocations are established then the conservation practices listed in Sections 5.0 & 6.0 above will no longer be in effect.

SECTION 7.0 DROUGHT RESPONSE LEVEL 3 – DROUGHT CRITICAL CONDITION

(a) A Drought Response Level 3 condition is also referred to as a “Drought Critical” condition. The Mayor 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% is required in order to ensure that sufficient supplies

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will be available to meet anticipated demands. Upon declaration of drought response Level 3, the Mayor shall take action to implement the Mandatory Level 3 conservation practices identified in this ordinance.

(b) All City of San Diego water customers will comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices during a Level 3 Drought Critical condition and will also comply with the following additional mandatory conservation measures:

1. Limit all landscape irrigation to no more than two (2) assigned days per week on a schedule established by the Mayor or designee and posted by the City of San Diego. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Mayor or designee and posted by the City of San Diego. This Section will not apply to commercial growers or nurseries, nor to the irrigation of golf course greens.

2. 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.

3. Customers will repair or stop all water leaks upon discovery or within forty-eight (48) hours of notification by the City of San Diego. with the exception of rental properties, which will be given seventy-two (72) hours to repair interior unit leaks, in order to comply with State resident notification requirements to access rental units. (CA Civ. Code 1954).

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

(c) Upon the declaration of a Drought Response Level 3 condition requiring a 30% 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 following circumstances:

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 of San Diego 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. These offsets shall be

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reflected in a reduced capacity fee from the project's initially calculated demand. For example, an offset of 75 EDUs 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 using circumstance 1-4 above.

This provision will 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.

(d) Upon the declaration of a Drought Response Level 3 condition, City of San Diego will suspend consideration of annexations to its service area.

(e) The Mayor may recommend and, upon resolution of Council, implement or modify water allocations per customer served by the City of San Diego Water Department. If the City of San Diego establishes a water allocation it will provide notice of the allocation. Following the effective date of the water allocation as established by the City of San Diego, any customer that uses water in excess of the allocation will be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this ordinance. If such allocations are established then the conservation practices listed in Sections 5.0, 6.0, & 7.0 above will no longer be in effect.

SECTION 8.0 DROUGHT RESPONSE LEVEL 4 – DROUGHT EMERGENCY CONDITION

(a) A Drought Response Level 4 condition is also referred to as a "Drought Emergency" condition. The Mayor 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% is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such resolution, the Mayor shall enter into Drought Response Level 4 and take action to implement the Mandatory Level 4 conservation practices identified in this ordinance and on the grounds provided in California Water Code Section 350.

(b) All customers using City of San Diego water will comply with conservation measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and will 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 will not apply to the following categories:

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A. Maintenance of trees and shrubs that are watered no more than 2 assigned days per week on a schedule assigned by the Mayor or designee and posted by the City of San Diego, 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 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 (2) days per week according to the schedule established under Section 7(b)(1);

F. Watering of livestock; and

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

2. Customers will repair or stop all water leaks upon discovery or within twenty-four (24) hours of notification by the City of San Diego. with the exception of rental properties, which will be given seventy-two (72) hours to repair interior unit leaks, in order to comply with State resident notification requirements to access rental units. (CA Civ. Code 1954)

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3. Stop filling or refilling residential pools and spas.

4. No new agreements will be entered into to provide water to customers or agencies outside of the City of San Diego.

5. The Mayor may implement additional measures which are necessary to ensure water availability for public health, safety, sanitation and fire suppression purposes.

SECTION 9.0 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 Mayor and resolution by 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 Mayor or designee will 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 City of San Diego. The City of San Diego may also post notice of the condition on their website.

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The Water Department will monitor the projected supply and demand for water during periods of emergency or drought and will recommend to the Mayor or designee the extent of the conservation required. Thereafter, the Mayor will recommend to the City Council the implementation or termination of the appropriate Level of water conservation in accordance with the applicable provisions of Sections of this Municipal Code.

(b) The existence of Drought Response Level 2 or Level 3 conditions may be declared upon recommendation by the Mayor and resolution by the City Council. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions will 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 City of San Diego 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 a newspaper used for publication of official notices. If the City of San Diego establishes a water allocation, it will provide notice of the allocation. Water allocation will be effective on the fifth (5) day following the date of the notice or at such later date as specified in the notice.

(c) The existence of a Drought Response Level 4 condition may be declared upon recommendation by the Mayor and resolution by 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 (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the City of San Diego will publish a notice giving the extent, terms and conditions respecting the use and consumption of water in a newspaper used for publication of official notices. If the City of San Diego establishes a water allocation, it will provide notice of the allocation. Water allocation will be effective on the fifth (5) day following the date of the notice 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 Mayor and resolution by the City Council at any regular or special City Council 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 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.

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

2. Supporting Documentation. The 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 Mayor or designee 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. 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.

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4. Required Findings for Variance. 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:

A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego 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 City of San Diego 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.

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.

SECTION 11.0 VIOLATIONS AND PENALTIES

It will be unlawful for any customer, corporation or association to violate the provisions of this Municipal Code. Violations of these provisions will be a misdemeanor subject to penalties provided in San Diego Municipal Code Section 12.0201. The Water Department can

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alternatively seek injunctive relief in the Superior Court pursuant to San Diego Municipal Code Section 12.0202 or pursue any administrative remedy provided in Chapter 1. In addition to any other remedies which the Water Department may have for the enforcement of this Division, service of water will be discontinued or appropriately limited through the installation of flow-restricting devices to any customer who willfully uses water in violation of any provision of this Division.

If any provision, Section, Subsection, sentence, clause or phrase of this Municipal Code, or the application of same to any customer or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Municipal Code will not be affected, it being the intent of the City Council in adopting this Municipal Code that no portions, provisions, or regulations contained herein will become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Municipal Code are declared to be severable for that purpose.

Code compliance officers/code compliance supervisors of The City of San Diego are hereby authorized, empowered and given the duty to enforce provisions of the San Diego Municipal Code and misdemeanors designated in the State Codes to issue citations for violations of said Codes under the provisions of Sections 836.5 and 853.6 of the Penal Code of the State of California when violations occur in the City of San Diego.

SECTION 12.0 EFFECTIVE DATE

This ordinance is effective immediately upon adoption or as otherwise established by State law for the City of San Diego.

Should the City of San Diego have declared a Water Emergency and enacted a Stage 1 Voluntary Compliance - Water Watch under the provisions of Municipal Code Section 67.3801 – 67.3811 at the time of the effective date of this ordinance, the City shall be deemed to be in a Drought Response Level 1 – Drought Watch Condition as herein provided on the effective date of this new ordinance. The City shall notice the requirements of Drought Response Level 1 by publishing a notice of the existence of a Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the City of San Diego. The City of San Diego may also post notice of the condition on their website.

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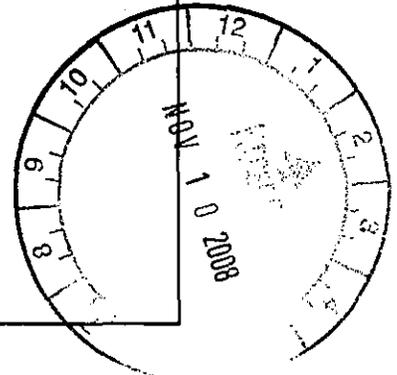


THE CITY OF SAN DIEGO

Amendments to the City's Emergency Water Regulations

City Council

November 10, 2008



Current Regulations

- Encompassed in Municipal Code
67.3801 – 67.3811
- Developed in 1991
- Ambiguity related to
 - Triggering response levels
 - Demand reduction targets
 - Enforcement of year-round water waste prohibitions
- Exclusively behavior restrictions

Proposal to Replace Existing Code Provisions

- Improves Water Shortage Response Plan
 - Better understanding of water use behaviors in times of shortage
 - Additional experience of other agencies
- Achieves greater consistency with other CWA members agencies (Model Drought Ordinance)
- Provides clearer communication to stakeholders and the public

3

Key Elements of Proposed New Ordinance

- Establishes year-round water waste prohibitions
 - The use of hose to wash down paved services
 - Excessive irrigation (gutter flooding)
 - Overfilling of swimming pools and fountains
 - The use of single pass-through cooling systems
- Year-round requirements
 - Serving of water only upon request
 - Hotels to offer guests the option of not laundering linens daily
 - Watering of vehicles at commercial car washes or using a hose with an automatic shutoff nozzle
 - Customers to repair leaks

4

Key Elements of Proposed New Ordinance

- Four drought response levels
- Authorized upon recommendation and declaration of Mayor, and Resolution of Council
- Establishes targets / triggers for each level when a specific amount of consumer demand reduction is required
 - Level 1 (voluntary) – up to 10% reduction
 - Level 2 (mandatory)– up to 20%
 - Level 3 (mandatory)– up to 40%
 - Level 4 (mandatory)– greater than 40%

6

Key Elements of Proposed New Ordinance

- Water use is increasingly restricted at higher response Levels
 - Landscape irrigation
 - Before 10am and after 6pm
 - Limited to
 - Level 2 - 3 days per week (1 day in winter)
 - Level 3 - 2 days per week (1 day in winter)
 - Level 4 - Prohibited, except in specific instances
 - Watering with automated system limited to 10 min per station (Level 2 -3)
 - Motive equipment washing before 10am and after 6pm or at a commercial car wash

6

Key Elements of Proposed New Ordinance

Customer must repair leaks

- Upon discovery or notification of City:
 - Within 5 days (Level 1)
 - Within 3 days (Level 2)
 - Within 2 days (Level 3)
 - Within 1 day (Level 4)
- Exception: rental properties will be repaired within 72 hours, to provide adequate tenant noticing.

Key Elements of Proposed New Ordinance

- At Level 3 when 30% or more demand reduction is required, new services and meters are restricted.
 - Issued only when:
 - Project has a valid building permit
 - Necessary for public health / safety / welfare
 - For Construction Meters, only upon the retirement of an existing meter
 - Applicant provides an enforceable commitment that the new demands will be offset

Key Elements of Proposed New Ordinance

- Water use allocations may be established at Level 2 or higher
 - Enabling language only
 - Established upon recommendation of Mayor and resolution of City Council
 - Use allocations, if established, will suspend behavioral restrictions – customers will choose how to use water allocated. Year-round restrictions will remain

9

Key Elements of Proposed New Ordinance

- Establishes “Hardship Variance” Process
 - Customer applies for variance based upon a showing of unique, undue hardship and disproportionate impact
 - Mayor will exercise approval authority on variance application

10

Key Elements of Proposed New Ordinance

- Violations and penalties are those provided for in Municipal Code generally
 - Notice of Violations – correct the behavior
 - Administrative Citations - \$100, \$250, \$500, \$750 or \$1000
 - Civil Penalties / Misdemeanor Citations – citation and referral to City Attorney's Office

- Other Considerations
 - Preserves the Mayor's authority to declare water emergency in the event of natural disaster or other unforeseen emergency- Water Code Section 350-359

11

Actions

- Request Approval Proposed Ordinance Amendments
- Timing:
 - Second Ordinance Hearing December 2
 - Effective beginning of January
- Public Education
 - Publish in newspapers
 - Central City website on water restrictions
 - FAQ developed and distributed to media, Community Planning Groups, Business Improvement Districts, Maintenance Assessment Districts
 - Provide additional notice with water bills

12

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

RUSH

(FOR AUDITOR'S USE ONLY)

M/A

TO: **000231**
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
Water Department

3. DATE: 10/13/08

4. SUBJECT:
AMENDMENTS TO THE CITY'S EMERGENCY WATER REGULATIONS

51

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Alex Ruiz
619 533-6692

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Mike Bresnahan
619 533-5450

7. CHECK BOX IF REPORT TO COUNCIL 12/02

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	41500				9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	760				See attached Report to the City Council
ORGANIZATION	120				
OBJECT ACCOUNT					
JOB ORDER	001001				
C.I.P. NUMBER	N/A				
AMOUNT	\$0				

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT / WATER	<i>[Signature]</i>	10/14/08	8	DEPUTY CHIEF	<i>[Signature]</i>	10-15-08
2	E.A.S.	<i>[Signature]</i>	10/14/08	9	C.O.O.	<i>[Signature]</i>	10-28-08
3				10	CITY ATTORNEY		
4	DOCKET LIAISON	<i>[Signature]</i>	10/29/08	11	ORIG. DEPT	<i>[Signature]</i>	10/29/08
5	C.F.O./FM	<i>[Signature]</i>	10/27/08		DOCKET COORD:	COUNCIL LIAISON	10/30/08
6	C.F.O./AUDITOR	<i>[Signature]</i>	10/28/08		COUNCIL PRESIDENT	<input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION	
7					COUNCIL DATE:	11/10/08	

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Amending Chapter 6, Article 7 of the San Diego Municipal Code by Amending Division 38, Sections 67.3801 - 67.3811 Emergency Water Regulations.

11A. STAFF RECOMMENDATIONS:
Adopt the Ordinance

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): All

COMMUNITY AREA(S): All

ENVIRONMENTAL IMPACT: This activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines section 15060(c)(3) because this activity is an organizational or administrative activity of a government that will not result in direct or indirect physical changes in the environment.

- ATTACHMENTS:
1. PROPOSED ORDINANCE AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE PROGRAM
 2. SAN DIEGO COUNTY WATER AUTHORITY MODEL DROUGHT ORDINANCE
 3. CALIFORNIA WATER CODE SECTION 350-359
 4. MUNICIPAL CODE SECTIONS 67.3801 - 67.3811

CITY CLERK INSTRUCTIONS: Please return one copy of the executed Council Action and a copy of the resolutions to Janet Bruce

(619) 533-7555, MS 910

000233

REPORT TO THE CITY COUNCIL
EXECUTIVE SUMMARY

DATE ISSUED: REPORT NO.
ATTENTION: Council President and Members of the City Council,
Council Meeting of
ORIGINATING DEPT.: Water Department
SUBJECT: Amendments to the City's Emergency Water Regulations
COUNCIL DISTRICTS: All
STAFF CONTACT: Alex Ruiz, Assistant Water Director (619) 533-6692
Mike Bresnahan, Deputy Water Director (619) 533-5450
REQUESTED ACTION: Ordinance Amending Chapter 6, Article 7 Of The San Diego
Municipal Code By Amending Division 38, Sections 67.3801 – 67.3811
Emergency Water Regulations.

STAFF RECOMMENDATION: Adopt the Ordinance.

EXECUTIVE SUMMARY:

Attached please find the proposed amendments to the City's Municipal Code, Sections 67.3801 – 67.3811, Emergency Water Regulations. These changes are being recommended in order to improve the City's demand response program in the event of a water supply shortage, and to provide greater consistency with the Model Drought Response Conservation Program Ordinance recently approved by the San Diego County Water Authority.

The Water Department has reviewed the elements encompassed within the Model Ordinance and has considered the impact on customers of the various proposed behavioral restrictions, enforcement mechanisms, and appeal process contained therein. As a result, the water department is proposing various language changes and behavioral restrictions in the use of water should demands exceed available supply. The more significant changes, elaborated in detail in the accompanying staff report, are:

- The establishment of year-round water waste prohibitions;
- The establishment of specific demand reduction targets for each drought response level;
- The ability of the City to establish water use allocations for individual customers and properties;
- A restriction in the issuance of new meters at a drought response Level 3 and 30% demand reduction requirement unless specific criteria are met, or an offset in water demand is provided; and
- The ability of customers to apply for a "hardship variance" from the restrictions imposed in the proposed ordinance, provided certain findings can be established.

FISCAL CONSIDERATIONS:

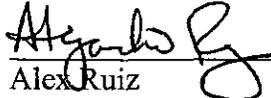
None with this action. Implementation of drought response levels will require additional Water Department resources in order to achieve a given level of compliance. The extent of this resource requirement is not known at this time but will be identified as part on any mandatory water restriction or water allocations recommended by the Mayor and approved by Council.

000234

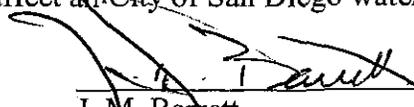
PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: The Mayor's Office has held community meetings in each Council District to discuss water supply issues impacting the City of San Diego and to discuss general provision of the proposed new water restrictions. Similar meetings have been held with members of the business community and the largest water consumers. Additional public education will occur upon approval of any changes in the existing Municipal Code.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: The implementation of the proposed revisions to the City's Emergency Water Regulations will affect all City of San Diego water customers.

 10/13/08

Alex Ruiz
Assistant Water Department Director

 10.15.08

J. M. Barrett
Public Utilities Director

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CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, AND 67.3811 AND ADDING NEW SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810 AND 67.3811, ALL RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE PROGRAM.

This ordinance amends the Municipal Code by repealing sections 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, and 67.3811 and adding new sections 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810 and 67.3811, all relating to water use restrictions and drought response program.

This ordinance will make amend the Municipal Code by making the following changes:

This ordinance establishes year-round water waste provisions. This ordinance contains specific demand reduction targets for each response level. It allows the City to establish future water use allocations for customers. This ordinance allows the City to restrict the issuance of new meters at drought response Level 3 (30% demand reduction required) unless specific criteria is met, or an offset in water demand is provided. It also allows customers to apply for a hardship variance from any of these water use restrictions.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

MMM:nda
10/24/08
Or.Dept:Water
O-2009-59

000237

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, AND 67.3811 AND ADDING NEW SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810 AND 67.3811, ALL RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE 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, reduced water use through conservation provides significant energy and other environmental benefits, can help protect water quality, and reduce greenhouse gas emissions; and

WHEREAS, improvements in technology and management practices offer the potential for increasing water conservation in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses; and

WHEREAS, growing population, climate change, and the need to protect California's fish and wildlife make it essential that the city manage its water resources as efficiently as possible; and

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WHEREAS, water conservation is consistent with the City's 2008 General Plan Update;
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, provides 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 drought response program will allow the City of San Diego 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 City of San Diego. The City of San Diego desires to adopt an ordinance consistent with the Water Authority's Urban Water

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Management Plan's contingency analysis of actions to be taken in response to water supply shortages; 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; and

WHEREAS, the City of San Diego desires to adopt an ordinance consistent with the Water Authority's Drought Management Plan, including the four levels containing regional actions to be taken to lessen or avoid supply shortages; and

WHEREAS, the City of San Diego, 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; 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; and has adopted an Urban Water Management Plan which also includes a contingency analysis of actions to be taken in response to water supply shortages; 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 City of San Diego 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,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

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Section 1. That Chapter 6, Article 7, Division 38, of the San Diego Municipal Code is hereby amended by repealing Sections 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810 and 67.3811.

Section 2. That Chapter 6, Article 7, Division 38, of the San Diego Municipal Code is hereby amended by adding new Sections 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810 and 67.3811, to read as follows:

Division 38: Emergency Water Regulations

§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.

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- (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.

§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.

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

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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.

Water Authority means the San Diego County Water Authority.

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

§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) A *customer* will not fail to repair or stop a water leak.
- (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.

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- (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.

§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.
- (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

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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 greywater 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

000245

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.]

§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) Irrigate residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, only before 10 a.m. and after 6 p.m. except for renovation or repair of the irrigation system with an operator present.

000246

- (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) Irrigate nursery and commercial grower's products only before 10 a.m. and after 6 p.m. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time.
- (4) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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.

000247

- (5) *Customers* shall repair or stop all water leaks upon discovery or within five days of notification by the City of San Diego.
- (6) Use recycled or non-potable water for construction purposes when available.
- (7) 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.
- (8) 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 before 10:00 a.m. and after 6:00 p.m.

§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

000248

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:
- (1) Limit all landscape irrigation to no more than three 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 does not apply to commercial *growers* or *nurseries*, nor to the irrigation of golf course greens and tees.
 - (2) Limit lawn watering and landscape irrigation using sprinklers to no more than ten minutes maximum per watering station per assigned day. This provision does not apply to landscape irrigation systems using water efficient devices, including drip/micro-irrigation systems and stream rotor sprinklers.
 - (3) 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.)

000249

- (4) Repair or stop all leaks upon discovery or within seventy-two hours of notification by the City of San Diego.
 - (5) Stop operating ornamental fountains except to the extent needed for maintenance.
- (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.*

§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

000250

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.

(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) *Customers* shall repair or stop all water leaks upon discovery or within forty-eight hours of notification by the City of San Diego, with the exception of rental properties, which shall be given

000251

seventy-two hours to repair interior unit leaks, in order to comply with state requirements of giving prior notice before accessing rental units.

- (4) 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*

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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.

- (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

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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.

§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.
- (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:

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- (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.

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- (2) *Customers* shall repair or stop all water leaks upon discovery or within twenty-four hours of notification by the City of San Diego, with the exception of rental properties, which shall be given seventy-two hours to repair interior unit leaks, in order to comply with state requirements of giving prior notice before accessing rental units..
- (3) Stop filling or refilling residential pools and spas.
- (4) No new commitments or agreements will be entered into to provide water to *customers* or agencies located outside of the City of San Diego.

§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

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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.
- (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

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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.

§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.

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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.

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:

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- (A) That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego *customers*.
- (B) 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.
- (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 City of San Diego to effectuate the purpose of this Division 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.
- (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.

§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

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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.

Section 3. That the Stage 1 Water Watch previously declared by the City Council in Resolution No. R-303973 on July 28, 2008, is hereby declared to be a Level 1 Drought Watch under this ordinance, and shall remain in effect until such drought response level is changed upon the recommendation of the Mayor and resolution of the City Council.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Mark M. Mercer
Deputy City Attorney

MMM:nda
10/28/08
Or.Dept:Water
O-2009-59

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I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810, AND 67.3811 AND ADDING NEW SECTIONS 67.3801, 67.3802, 67.3803, 67.3804, 67.3805, 67.3806, 67.3807, 67.3808, 67.3809, 67.3810 AND 67.3811, ALL RELATING TO WATER USE RESTRICTIONS AND DROUGHT RESPONSE PROGRAM.

Division 38: Emergency Water Regulations

~~§67.3801~~ Declaration of Emergency

~~That the City Manager be, and he is hereby authorized to determine and declare that a water shortage emergency exists in any and/or all parts of The City of San Diego, and upon such determination, to promulgate such regulations, rules and conditions relative to the time of using water, the purpose or purposes for which it may be used, and such other necessary limitations as will, in his opinion, relieve the water shortage in any such section or sections of The City.~~

~~§67.3802~~ Comprehensive Water Conservation Plan

~~There is hereby established a City of San Diego Comprehensive Water Conservation Plan:~~

~~§67.3803~~ Declaration of Policy

~~The City Council, by and through its Water Department, finds and determines that a water shortage could exist based upon the occurrence of one or more of the following conditions:~~

- (a) ~~A general water supply shortage due to increased demand or limited supply.~~
- (b) ~~Distribution or storage facilities of the Metropolitan Water District of Southern California, the San Diego County Water Authority, or the City of San Diego become inadequate.~~
- (c) ~~A disruption of the supply, storage and distribution facilities of the Metropolitan Water District of Southern California, the San Diego County Water Authority, or the City of San Diego occurs.~~

~~It is hereby declared that, because of the conditions prevailing in the City of San Diego, the general welfare requires that the City maximize the beneficial use of its available water resources to the extent to which they are capable, and that the waste or unreasonable use, or unreasonable method of use of water be prevented and the conservation of such water is to be extended with a view to the reasonable and beneficial use thereof in the interests of the people of the City of San Diego and for the public welfare.~~

§67.3804 Authority to Implement Water Conservation Stages

~~The City Manager, or his designee, upon the recommendation of the Director of the Water Department, and following public notice, is authorized and directed to implement the applicable provisions of sections 67.3801 through 67.38.11, upon his determination that such implementation is necessary to protect the public welfare and safety under the following conditions:~~

- (a) ~~In the event of an unforeseeable disaster or water emergency such as an earthquake, aqueduct break, or other major disruption in the water supply, the City Manager, or his designee, is authorized to implement the~~

emergency provisions of sections 67.3801 through 67.38.11. Public notice will follow enactment of said provision.

- (b) ~~In the event of a foreseeable water emergency such as extended drought conditions, the City Manager, or his designee, is authorized to implement the applicable provisions of sections 67.3801 through 67.38.11 as provided herein, after holding a public hearing before the City Council.~~

§67.3805 Application

- (a) ~~The provisions of Sections 67.3801 through 67.38.11 shall apply to all persons, customers and property served by the Water Department wherever situated; except as provided in section 67.3805(b).~~
- (b) ~~The use of potable water for industrial manufacturing, processing, or research and development is exempt from the provisions of section 67.3806(d), if all of the following conditions are met: 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, a copy of which 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 full 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. 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.~~

§67.3806

Water Conservation Stages

~~It is unlawful for any customer of The City of San Diego Water Department to make, cause, use or permit the use of water from the City for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of Sections 67.3801 through 67.38.11, or in an amount in excess of that use permitted by the following conservation stages which are in effect pursuant to action taken by the City Manager, or his designee, in accordance with the provisions of sections 67.3801 through 67.38.11. It is unlawful for any person to waste water or to use it unreasonably.~~

- (a) ~~Unreasonable uses of water shall include, but are not limited to, the following practices:~~
- (1) ~~A customer shall not let water leave the customer's property by drainage onto adjacent properties or public or private roadways or streets due to excessive irrigation and/or uncorrected leaks.~~
 - (2) ~~A customer will not fail to repair a water leak.~~
 - (3) ~~A customer will not use water to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate safety or sanitation hazards.~~

~~The following stages shall take effect upon declaration as herein provided.~~

- (b) ~~Stage 1. Voluntary Compliance – Water Watch.~~

~~Stage 1 applies during periods when the possibility exists that the City of San Diego Water Department will not be able to meet all of the water demands of its customers. All elements of Stage 2 shall during Stage 1 apply on a voluntary basis only.~~

(e) ~~Stage 2. Mandatory Compliance—Water Alert.~~

~~Stage 2 applies during periods when the probability exists that the City of San Diego Water Utilities Department will not be able to meet all of the water demands of its customers.~~

~~Upon implementation by the City Manager and publication of notice, the following water conservation measures shall apply to except when reclaimed water is used:~~

(1) ~~Lawn watering and landscape irrigation, including construction meter irrigation, is permitted only during designated hours on designated days. Watering is permitted at any time if:~~

(A) ~~a hand-held hose equipped with a positive shut-off nozzle is used, or~~

(B) ~~a hand-held container is used, or~~

(C) ~~a drip irrigation system is used.~~

~~Commercial nurseries, commercial sod farms and similarly situated establishments are exempt from Stage 2 irrigation restrictions but will be required to curtail all nonessential water use.~~

(2) ~~The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment, is permitted at any time with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses.~~

~~Washing may be done at any time on the immediate premises of a commercial car wash or commercial service station, or by a mobile~~

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~~car wash or on-site car wash using high pressure washing equipment. Further, such washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food and perishables.~~

- (3) ~~The overfilling of swimming pools, spas, ponds and artificial lakes is prohibited.~~
- (4) ~~Irrigation of golf courses, parks, school grounds and recreation fields is permitted only during designated hours on designated days.~~
- (5) ~~Use of water from fire hydrants shall be limited to fire fighting, related activities or other activities necessary to maintain the health, safety and welfare of the citizens of San Diego.~~
- (6) ~~All restaurants are prohibited from serving water to their customers except when specifically requested by the customers.~~
- (7) ~~Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire or sanitation hazards.~~
- (8) ~~Ornamental fountains may operate if they recirculate water. Ornamental fountains that do not recycle water are prohibited.~~
- (9) ~~Construction operations receiving water from a construction meter or water truck shall not use water unnecessarily for any purposes other than those required by regulatory agencies. Construction projects requiring watering for new landscaping materials should~~

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adhere to the designated irrigation hours associated with subsection (1) of State 2.

(d) ~~Stage 3. Mandatory Compliance—Water Warning.~~

~~Stage 3 applies during periods when the City of San Diego Water Utilities Department will not be able to meet all of the water demands of its customers. Upon implementation by the City Manager and publication of notice, the following water conservation measures shall apply except when reclaimed water is used:~~

- ~~(1) Lawn watering and landscape irrigation, including with a hand-held hose equipped with a positive shut-off nozzle, is permitted only during designated hours on designated days. Watering is permitted at any hour, on any day, if a hand-held container or drip irrigation system is used.~~
- ~~(2) Commercial nurseries shall reduce water use by an amount determined by the City Council.~~
- ~~(3) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only during designated hours on designated days with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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 not using partially reclaimed or recycled water shall be reduced in volume by an amount determined by the City Council. Further, such washings are exempt from these~~

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regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food and perishables.

- (4) ~~The overfilling of swimming pools and spas is prohibited. The filling or refilling of ponds and artificial lakes is prohibited.~~
- (5) ~~Watering golf courses, parks, school grounds and recreation fields is permitted only during designated hours on designated days, except golf course greens.~~
- (6) ~~Use of water from fire hydrants shall be limited to fire fighting or other activities immediately necessary to maintaining the health, safety and welfare of the citizens of San Diego.~~
- (7) ~~All restaurants are prohibited from serving water to their customers except when specifically requested by the customers.~~
- (8) ~~Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire or sanitation hazards.~~
- (9) ~~The operation of any ornamental fountain or similar structure is prohibited except for short periods of time to prevent damage.~~
- (10) ~~The number of new construction meters shall not exceed the existing number of currently authorized meters. A new meter shall be issued only when an old meter is returned. Construction projects requiring water from a construction meter or a water truck shall not use water unnecessarily for any purposes other than those required by regulatory agencies. Construction projects requiring water for~~

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~~new landscapes shall adhere to the designated days and times as set forth in subsection (1) of Stage 2. Further, construction projects necessary to maintaining the health, safety and welfare of the public are exempt from these regulations.~~

- (11) ~~The use of water for commercial manufacturing or processing purposes shall be reduced in volume by an amount determined by the City Council. This provision does not apply to businesses which are exempt from water use restrictions pursuant to section 67.3805(b).~~

(e) ~~Stage 4: Mandatory Compliance – Water Emergency~~

~~Stage 4 applies when a major failure of any supply or distribution facility, whether temporary or permanent, occurs in the water distribution system of the State Water Project, Metropolitan Water District, San Diego County Water Authority, or City of San Diego water facilities.~~

~~Upon implementation by the City Manager and publication of notice, the following measures shall apply except when reclaimed water is used:~~

- (1) ~~All outdoor irrigation of turf and ground covers is prohibited with the exception of plant materials classified to be rare, exceptionally valuable or essential to the well being of the public at large or rare animals. Irrigation of trees and shrubs is permitted only by hand-held hose equipped with a positive shut-off nozzle, hand-held container, or drip irrigation system. Greywater may be used in accordance with Health Department regulations to irrigate fruit~~

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~~trees, ground covers and ornamental trees and shrubs. Greywater is defined as household wastewater other than toilet waste.~~

(2) ~~The use of water at commercial nurseries, commercial sod farmers and similarly situated establishments shall be reduced in volume by an amount determined by the City Council. Greywater may be used in accordance with Health Department regulations to irrigate fruit trees, ground covers and ornamental trees and shrubs.~~

(3) ~~The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is prohibited. The use of water by all types of commercial car washes or commercial vehicle service stations and not in the immediate interest of the public health, safety and welfare shall be reduced in volume by an amount determined by the City Council. Further, such washings are exempt from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings such as garbage trucks and vehicles used to transport food and perishables.~~

(4) ~~The filling, refilling or adding of water to swimming pools, spas, ponds and artificial lakes is prohibited.~~

(5) ~~The watering of all golf course areas, except greens, is prohibited.~~

(6) ~~Use of water from fire hydrants shall be limited to fire fighting or other activities immediately necessary to maintain the health, safety and welfare of the citizens of San Diego.~~

(7) ~~All Restaurants are prohibited from serving water to their customers except when specifically requested by the customers.~~

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- (8) ~~Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire or sanitation hazards.~~
- (9) ~~The operation of any ornamental fountain or similar structure is prohibited except for short periods of time to prevent damage.~~
- (10) ~~The use of water for commercial, manufacturing or processing purposes shall be reduced in volume by an amount determined by the City Council.~~
- (11) ~~All sales of non-reclaimed water outside of the City limits shall be discontinued, with the exception of sales previously approved by the City Council.~~
- (12) ~~No new construction meters will be issued. Construction water shall not be used for earth work or road construction purposes. Construction projects necessary to maintaining the health, safety and welfare of the public are exempt from these regulations.~~
- (13) ~~Except as to property for which a building permit has been heretofore issued, no new building permit(s) shall be provided, except in the following circumstances:~~
 - (A) ~~For projects necessary to protect the public's health, safety, and welfare;~~
 - (B) ~~When using reclaimed water;~~
 - (C) ~~When the recipient of the building permit can demonstrate that no net increase in water use will occur; or~~

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(D) Where the recipient of the building permit provides a conservation offset. For purposes of the section, "conservation offset" shall mean the implementation of proven conservation techniques which, when installed, will result in a reduction equal to demand of the proposed use. A conservation offset may be effected by paying a fee established by the City Manager or his designee to the City Treasurer in an amount necessary to cover the cost of implementing such conservation techniques. The fee will be based on the conservation offset required for an equivalent dwelling unit. Such fee shall apply to residential as well as commercial and industrial buildings, and may be adjusted from time to time as determined by the City Manager or his designee.

(14) Stage 4 unless sooner terminated by the City Council, shall terminate September 30, 1991, unless prior to said date the Council acts to extend it.

§67.3807 Mandatory Conservation Phase Implementation

The Water Department shall monitor the projected supply and demand for water, by its customers, on a daily basis during periods of emergency or drought and shall recommend to the City Manager the extent of the conservation required through the implementation and/or termination of particular conservation stages to prudently plan and supply water to its customers. Thereafter, the City Manager may order the implementation or termination of the appropriate phase of water

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~~conservation in accordance with the applicable provisions of sections 67.3801 through 67.38.11. The declaration of any stage beyond Stage 1 shall be made by public announcement and shall be published a minimum of one (1) time for three (3) consecutive days in a daily newspaper of general circulation. The stage designated shall become effective immediately upon announcement.~~

§67.3808 Penalty

~~It shall be unlawful for any person, corporation or association to violate the provisions of Sections 67.3801 through 67.38.11. Violations of these provisions shall be a misdemeanor subject to penalties provided in San Diego Municipal Code section 12.0201. The Water Department can alternatively seek injunctive relief in the Superior Court pursuant to San Diego Municipal Code section 12.0202 or pursue any administrative remedy provided in Chapter 1. In addition to any other remedies which the Water Department may have for the enforcement of this Division, service of water shall be discontinued or appropriately limited to any customer who willfully uses water in violation of any provision of this Division.~~

§67.3809 Severability

~~If any provision, section, subsection, sentence, clause or phrase of sections 67.3801 through 67.38.11, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of sections 67.3801 through 67.38.11 shall not be affected, it being the intent of the City Council in adopting Sections 67.3801 through 67.38.11 that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any~~

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other provision hereof, and all provisions of sections 67.3801 through 67.38.11 are declared to be severable for that purpose.

§67.3810 Citations

Code compliance officers/code compliance supervisors of The City of San Diego are hereby authorized, empowered and given the duty to enforce provisions of the San Diego Municipal Code and misdemeanors designated in the State Codes to issue citations for violations of said Codes under the provisions of Sections 836.5 and 853.6 of the Penal Code of the State of California when violations occur in the City of San Diego.

§67.3811 Publication of Terms of Water Use

That upon such emergency declaration by the City Manager, it shall be his duty to have public notice given by publishing a notice giving the extent, terms and conditions respecting the use and consumption of water, at least once in the official newspaper of said City; that upon such declaration and publication of such notice due and proper notice shall be deemed to have been given each and every consumer supplied with water by The City of San Diego.

Division 38: Emergency Water Regulations

§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

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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.

§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

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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.

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.

Water Authority means the San Diego County Water Authority.

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

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§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) A customer will not fail to repair or stop a water leak.
- (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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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.
- (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 greywater 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.]

§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.

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- (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) Irrigate residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, only before 10 a.m. and after 6 p.m. except for renovation or repair of the irrigation system with an operator present.
 - (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) Irrigate nursery and commercial grower's products only before 10 a.m. and after 6 p.m. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time.
 - (4) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. 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.
- (5) Customers shall repair or stop all water leaks upon discovery or within five days of notification by the City of San Diego.
- (6) Use recycled or non-potable water for construction purposes when available.
- (7) 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.
- (8) 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 before 10:00 a.m. and after 6:00 p.m.

§67.3806Drought 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:
- (1) Limit all landscape irrigation to no more than three 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 does not apply to commercial growers or nurseries, nor to the irrigation of golf course greens and tees.
 - (2) Limit lawn watering and landscape irrigation using sprinklers to no more than ten minutes maximum per watering station per assigned day. This provision does not apply to landscape irrigation systems using water efficient devices, including drip/micro-irrigation systems and stream rotor sprinklers.

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- (3) 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.)
- (4) Repair or stop all leaks upon discovery or within seventy-two hours of notification by the City of San Diego.
- (5) Stop operating ornamental fountains except to the extent needed for maintenance.
- (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.

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§67.3807Drought 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.
- (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) Customers shall repair or stop all water leaks upon discovery or within forty-eight hours of notification by the City of San Diego, with the exception of rental properties, which shall be given seventy-two hours to repair interior unit leaks, in order to comply with state requirements of giving prior notice before accessing rental units.

(4) 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.

- (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.

§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.
- (b) All City of San Diego water customers shall comply with all water conservation measures required during Level 1 Drought Watch, Level 2

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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) Customers shall repair or stop all water leaks upon discovery or within twenty-four hours of notification by the City of San Diego, with the exception of rental properties, which shall be given seventy-two hours to repair interior unit leaks, in order to comply with state requirements of giving prior notice before accessing rental units.
- (3) Stop filling or refilling residential pools and spas.
- (4) No new commitments or agreements will be entered into to provide water to customers or agencies located outside of the City of San Diego.

§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

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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.

(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.

§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.

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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.

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:

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- (A) That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego customers.
- (B) 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.
- (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 City of San Diego to effectuate the purpose of this Division 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.
- (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.

§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

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be discontinued or appropriately limited through the installation of flow-
restricting devices to any *customer* who willfully uses water in violation of this
Division.