

ORDINANCE NO. VWD-012

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT ADOPTING A WATER CONSERVATION PROGRAM PURSUANT TO WATER CODE SECTION 375 AND AMENDING THE DISTRICT'S WATER SHORTAGE CONTINGENCY PLAN TO COMPLY WITH EMERGENCY REGULATIONS ADOPTED BY THE STATE WATER RESOURCES CONTROL BOARD PERTAINING TO DROUGHT CONSERVATION

WHEREAS, California is experiencing one of the most severe droughts on record; and

WHEREAS, in January 2014, California Governor Jerry Brown declared a drought state of emergency, requiring Californians in certain areas to curtail regular water use by twenty percent (20%) due to ongoing water shortfalls and further declared a continued drought state of emergency on April 25 and December 22, 2014; and

WHEREAS, on July 15, 2014 the State Water Resources Control Board ("SWRCB") adopted emergency water conservation regulations requiring urban water suppliers to implement mandatory water use restrictions and adopt a water shortage contingency plan ("Plan"); and

WHEREAS, on March 17, 2015, the SWRCB re-adopted amended emergency regulations mandating that urban water suppliers, such as the Victorville Water District (the "District"): (1) implement all requirements and actions of the stage of their Plans that includes mandatory restrictions on the number of days that outdoor irrigation of ornamental landscapes or turf with potable water is allowed; or (2) amend their Plans to include the mandatory restrictions to be implemented by May 11, 2015; and

WHEREAS, Governor Brown further issued Executive Order No. B-29-15 on April 1, 2015, which declared that all prior executive orders relating to the drought state of emergency remained in full force and ordered the SWRCB to impose restrictions on urban water suppliers to achieve a Statewide twenty-five percent (25%) reduction in urban potable water usage through February 2016; and

WHEREAS, in response to this Executive Order, the SWRCB further revised and released its emergency regulations, the final version of which repealed many provisions of the March 17, 2015 emergency regulations and now requires the District to cut its Total Potable Water Production (as defined herein and in SWRCB Regulation 865(a)(3) set forth in Title 23 of the California Code of Regulations) by twenty-eight percent (28%) for each month, as compared to the amount used in the same months in 2013, effective June 1, 2015; and

WHEREAS, to meet this new conservation standard, District staff has determined that adoption of its amended Plan (which includes the various water supply shortage stages/responses set forth in this Ordinance) must occur on or before June 1, 2015; and

WHEREAS, following notice and a public hearing and making appropriate findings of necessity, the District is authorized by California Water Code section 375 *et seq.* to adopt and enforce a water conservation program to reduce the quantity of water used for the purposes of conserving the District's water supplies; and

WHEREAS, on April 10, 2015, the District published notice that a public hearing on the adoption of this Ordinance would be held on April 21, 2015, which public hearing was duly held and subsequently continued to May 5, 2015 and now to May 19, 2015 to ensure full public comment and implement the revised water reduction mandates finally adopted on May 5, 2015 by the SWRCB; and

WHEREAS, the District is further authorized by Water Code section 350 *et seq.* to: (1) declare water shortage emergency conditions when it finds and determines that the ordinary demands and requirements of its water customers cannot be satisfied without depleting the District's water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and (2) adopt regulations and restrictions that include discontinuance of service as an enforcement option where a water shortage emergency condition has been declared; and

WHEREAS, given the increasingly serious and ongoing drought conditions throughout the State, the need to conserve scarce and precious water resources in the District's boundaries, and the time constraints for meeting the conservation standard currently set forth in the SWRCB draft regulations, the District Board of Directors ("District Board") finds that on or before May 31, 2015, it is necessary to: (1) adopt this Ordinance; and (2) subsequently adopt a resolution declaring and implementing the provisions of Water Supply Shortage Stage 2 as provided for in this Ordinance, to ensure the continued health, safety, welfare, and quality of life of the water users within the District's boundaries, including those in the City of Victorville; and

WHEREAS, the District Board finds that the adoption of this Ordinance is exempt from the provisions of Public Resources Code section 21000 *et seq.* (the California Environmental Quality Act) as a project undertaken as immediate action necessary to prevent or mitigate an emergency pursuant to Title 14, California Code of Regulations section 15269 and as a project undertaken to assure the maintenance, restoration or enhancement of a natural resource pursuant to Title 14, California Code of Regulations section 15307.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE VICTORVILLE WATER DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS.

The recitals and findings set forth above are true and correct, and are hereby incorporated by this reference as if set forth in their entirety.

SECTION 2. ADDITION OF NEW CHAPTER 10.05.

A new Chapter 10.05, titled “**Victorville Water District Conservation Program and Water Shortage Contingency Plan**” (to be temporarily codified for reference purposes only in Title 10 of the City of Victorville Municipal Code) is hereby added to read in its entirety as follows:

10.05.010 Intent and Purpose.

The intent of this Chapter is for the Victorville Water District (the “District”) to establish and adopt standards, guidelines and procedures for year-round water conservation to prevent the waste or unreasonable use of water within its territorial boundaries and to further prescribe, define and enforce restrictions, prohibitions and exclusions on water use deemed necessary by the District Board of Directors (“District Board”) pursuant to California Water Code section 350 *et seq.* and the regulations of the State Water Resources Control Board (“SWRCB”) for the purposes of:

- (a) Restricting the use of water necessary for ordinary domestic and commercial purposes during threatened or existing water supply shortages and enabling implementation of the District’s Water Supply Shortage Contingency Plan stages to respond to the State’s historic drought and meet the Total Potable Water Production reduction percentage required by the SWRCB emergency regulations; and
- (b) Protecting and promoting the public health, safety, and welfare by ensuring continued availability of water for necessary uses; and
- (c) Protecting the physical and economic stability of the District by insuring an adequate supply of water to its customers and reducing hazards to the public resulting from inappropriate use of water.

10.05.020 Application of Chapter.

The provisions of this Chapter shall apply to all Water Users (as defined in Section 10.05.030) including the City of Victorville (the “City”). The restrictions or prohibitions in this Chapter shall not apply to water use, runoff or flow: (1) resulting from firefighting, hydrant flushing or fire training activities; (2) necessary to prevent or abate threats to the public health or safety; or (3) from routine maintenance of any District-owned water system, well flushing or from temporary water system failures or malfunctions. During Water Supply Shortage Stages 2 through 4, flushing operations will be reduced to the absolute minimum needed to maintain water quality in conformance with Federal drinking water standards and where practicable, the water from these flushing operations will be utilized beneficially.

10.05.030 Definitions.

Whenever used in this Chapter, the following definitions shall apply:

(a) "Active Recreational Area" means a turf area which measures a minimum of one hundred feet long and one hundred feet wide designated and primarily used for organized sports, including, without limitation, softball, baseball, football, soccer or a similar related sport, including all amenities related to the activity.

(b) "Administrative Fine" means a monetary civil penalty assessed for violations of this Chapter by issuance of an administrative citation.

(c) "Appellant" means any Person against whom an Administrative Fine is levied pursuant to an administrative citation issued under this Chapter and who contests or disputes such Administrative Fine. "Appellant" shall also include Persons appealing the General Manager's denial of a Hardship Exception and Persons appealing a written notice of water service discontinuation under Sections 10.05.120(b) and 10.05.190(c) of this Chapter.

(d) "Controller" means an irrigation controller, which is an automated device to operate valve stations to set days, length of time to water and frequency of water application for lawn sprinklers and Low-Volume irrigation systems.

(e) "Enforcement Officer" means any officer or employee of the District (including such officers or employees of the City serving the District in an ex officio capacity by virtue of the District's status as a subsidiary district of the City) with the authority to enforce this Chapter, including the General Manager, District staff or City code enforcement officers designated by the General Manager or empowered by Water Code section 30546 to enforce this Chapter.

(f) "Excess Runoff" means water accumulation on streets, sidewalks, gutters, adjacent properties or other areas in amounts sufficient to cause the escape or flow of water in such quantity as to: cause flooding; impede vehicular or pedestrian traffic; create a hazardous condition; or cause damage to any public or private right-of way through failure or neglect to properly operate or maintain any irrigation, water delivery or drainage system.

(g) "General Manager" means the General Manager of the District and/or his/her duly authorized designees. The Victorville City Manager serves ex officio as the District's General Manager.

(h) "Ground Cover" means various low growing shrubs and perennials used in a landscape in place of grass or where grass is difficult to grow, planted on slopes to prevent erosion and/or to prevent weed growth. Ground cover includes low-growing, clumping, trailing, creeping, or sprawling vegetation.

- (i) "Hardscapes" means any inorganic decorative landscape materials, including but not limited to, stones, boulders, cobblestones, pavers, decorative concrete, decomposed granite and/or mulch, incorporated into an overall landscape design.
- (j) "Hearing Officer" means any person appointed by the General Manager to preside over the administrative appeal hearings provided for in this Chapter.
- (k) "Impermeable/impervious surfaces mean solid surfaces that do not allow water to penetrate, forcing runoff; such as: asphalt, concrete, traditional stone, brick or concrete pavers.
- (l) "Large System" means an irrigation system that has both multiple Controllers and more than ten (10) watering Zones.
- (m)"Lot" means a legally created parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, and uses customarily incidental to it, including the open space required by the City's zoning ordinance, and having its principal frontage upon a street as defined in said zoning ordinance.
- (n) "Low-Volume Irrigation Systems" means appropriately designed irrigation systems that utilize low volume devices appropriate to the climate and site factors. Such heads include micro sprinkler heads, drip emitters and bubbler emitters.
- (o) "May" means any act, service, or performance that is permissive.
- (p) "Model Home" means a facility used exclusively for the promotion and sale of homes similar to the model.
- (q) "Native Plant" means a plant that lives or grows naturally in a particular region without direct or indirect human intervention.
- (r) "New Model Home" and "New Residential Development" means Model Homes or Residential Developments not yet built/constructed or not occupied since built.
- (s) "New Non-Residential Facilities" means Non-Residential Facilities not yet built/constructed or not occupied since built.
- (t) "Overspray" means water which is delivered beyond landscaped areas; wetting pavements, walks, structures, impermeable surfaces or other non-landscaped areas.
- (u) "Responsible Person(s)" means a natural person or legal entity who causes, maintains or allows a violation of this Chapter to occur or continue by action or failure to act. A Responsible Person includes, but is not limited to: the owner, tenant, co-tenant, lessee, sub-lessee or other person with any right to possession of the property/premises where a violation of this Chapter occurs; the on-site manager

who normally works daily at the site when the business is open and is responsible for the activities at such premises; and the owner, majority stockholders, corporate officers, trustees and general partners of a legal entity. There may be more than one Responsible Person for a violation.

(v) "Person" means a natural person or entity, an individual, firm, association, business, trust, organization, corporation, partnership, company or any other entity which is recognized by laws as the subject of rights or duties.

(w) "Reclaimed or Recycled Water" means water which has been processed by a municipal or comparable wastewater treatment plant and/or otherwise made available for reuse which meets California Code of Regulations Title 22 requirements and has been approved by all applicable Federal, State or local regulatory agencies.

(x) "Residential" means any type of dwelling or domiciling unit or units suitable or designed for human habitation, including, but not limited to, single family homes, condominiums, townhomes, apartment or manufactured homes, but not including hotels, motels, licensed convalescent homes, commercially operated retirement homes, time share units or the like.

(y) "Right-of-Way" means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility or pedestrian walkway purposes.

(z) "Shall" or "will" means any act, service, or performance that is mandatory or otherwise required.

(aa) "Station" means an area or Zone served by one water valve or by a set of water valves that operate simultaneously.

(bb) "Total Potable Water Production" means all potable water that enters into the District's distribution system, excluding water placed into storage and not withdrawn for use during a SWRCB-mandated reporting period, or water exported outside the District's service area.

(cc) "Turf" means a surface layer of earth containing grass with its roots.

(dd) "Water-intensive Landscape" means an area of land that is watered with a permanent water application system (such as in-ground sprinklers) and planted primarily with plants not listed in the District's adopted Water-wise Plant list. Included is the total surface area of all water features (*i.e.* swimming pools of any size, fountains, ponds, water courses, waterfalls and other artificial water structures) filled or refilled with water from any source.

(ee) "Water Reduction Plan" or "Reduction Plan" means a written plan submitted to the General Manager that insures a minimum monthly potable water use reduction of twenty-five percent (25%) for any of the facilities listed in Subsection 10.05.090(b)(1)c of this Chapter with Large Systems, compared to the amount used for the same months in 2013, or such other baseline year as may be revised from time-to-time by District resolution. The General Manager will provide facilities with Large Systems with information regarding the average monthly water use by the facility for the baseline year, and the General Manager's decision to approve or disapprove a Reduction Plan is final. Water Users with approved Reduction Plans are subject to the investigation and enforcement provisions of this Chapter and must be in full compliance with such Reduction Plans at all times.

(ff) "Water Supply Shortage" means any water shortage caused by drought or any other threatened or existing water shortage, disaster or facility failure, earthquake, extended loss of electrical power, pipeline failure or other condition which results in or threatens to result in the District's inability to meet the water demands of its customers.

(gg) "Water User" means any person, firm, partnership, association, corporation, political entity, customer, property owner, or property owner agent/assignee whose premises are supplied water by the District.

(hh) "Water Waste" means any unreasonable or non-beneficial use of water, or any unreasonable method of use of water, any excessive dissipation of water, intentional or unintentional, including, but not limited to; the use of water for any purpose which allows flooding or runoff over sidewalks, in gutters, driveways, streets or adjacent lands; the use of water in violation of any of the specific uses prohibited and restricted by this Chapter as hereinafter set forth.

(ii) "Water-wise Plants" means plants that perform well in the District's service area and have been selected according to their ability to withstand the extreme hot/cold desert climate and fluctuating temperatures; adaptability to drought conditions; and ability to survive once established with a limited amount of supplemental water. The District has adopted the list developed by the Alliance for Water Awareness and Conservation as its Water-wise Plant List (the "WWP List").

(jj) "Xeriscaping" means a water conservation concept that stresses the use of the appropriate plant material and irrigation techniques which are well suited for the local micro-climate. This concept incorporates native plants, selected Hardscapes, and proper planting and irrigation techniques that improve the overall water efficiency of a landscape system.

(kk) "Zone" means an area served by one valve or by a set of valves that operate simultaneously, sometimes also referred to as a Station.

10.05.040 Year Round Voluntary Conservation and Public Education Measures.

(a) Even when there is no Water Supply Shortage, all Water Users must use water wisely, take reasonable steps to prevent the waste or unreasonable use of water, and reduce water consumption necessary for ordinary domestic and commercial purposes.

(b) The District will provide new Water Users with: information about: designing, installing and maintaining water efficient landscapes; proper water uses; water conservation methods; a full copy of the ordinance creating this Chapter (or a summary thereof); and notification of any stage of the District's Water Supply Shortage Contingency Plan currently in effect.

(c) Voluntary measures are encouraged at all times to reduce water usage and to use water wisely. Such measures include:

(1) Converting lawns to drought tolerant, low water use or native plants, incorporating the principals of Xeriscaping.

(2) Using low volume irrigation systems for ground cover, gardens, shrubs and trees.

(3) Performing a self-audit and/or an assessment of water consumption history.

(4) Providing proper installation and use of pool covers.

(5) Incorporating Hardscapes and/or permeable/porous surfaces into landscape design.

(6) Winterizing pipes and valves.

(7) Installation and use of water saving devices such as rain sensors, low-flow showerheads, faucet aerators and sprinkler and irrigation watering valves; low-flow or waterless toilets; high-efficiency, low water use washing machines and dishwashers; and automated irrigation timers and/or Controllers.

(8) Adjusting sprinklers and irrigation systems to avoid Overspray; avoiding sprinkler irrigation watering on windy days.

(9) Minimizing shower times and shutting off water while brushing teeth or shaving.

(10) Installing and properly using mulch as a substitution for ground cover.

10.05.050 The Water-wise Plant List (“WWP List”).

Many factors determine whether a Water-wise Plant will adapt or perform well, and even though a plant appears on the WWP List, there is no assurance it will adapt or thrive. Therefore, from time to time, the General Manager will amend the WWP List as necessary to add or remove plants. The currently effective WWP List will be posted on the District’s website and will be available in printed form in the District offices.

10.05.060 Year-Round Prohibited Water Waste - Conservation Stage 1.

(a) Year-Round Water Conservation Stage 1 (“Conservation Stage 1”) (when the District is able to meet all the water demands of its customers in the immediate future) shall be in effect at all times, unless the District Board otherwise declares under the provisions of Section 10.05.070 of this Chapter that one or more of the District’s Water Supply Shortage Contingency Plan (“WSSCP”) stages are in effect.

(b) During Conservation Stage 1, all voluntary water conservation measures specified in Section 10.050.040 of this Chapter, and the following additional mandatory measures and prohibitions on water use shall be in effect:

(1) Water Waste (as defined in this Chapter) is prohibited.

(2) The irrigation/watering of lawns, gardens, landscaped areas, trees, shrubs, ground cover or other plants utilizing sprinkler systems except in accordance with the following provisions is prohibited:

a. Summer Outdoor Sprinkler Restrictions: From June 1 through September 30, irrigation/watering is permitted only between the hours of 10:00 p.m. and 6:00 a.m.

b. Winter Outdoor Sprinkler Restrictions: From October 1 through May 31, irrigation/watering is permitted only between the hours of 9:00 a.m. and 3:00 p.m.

c. Summer Outdoor Sprinkler Restrictions (Large Systems): From June 1, through September 30, irrigation/watering for facilities with Large Systems is only permitted between the hours of 10:00 p.m. and 9:00 a.m.

d. Winter Outdoor Sprinkler Restrictions (Large Systems): From October 1, through May 31, irrigation/watering for facilities with Large Systems is only permitted between the hours of 9:00 a.m. and 3:00 p.m.

(3) Irrigation/watering is permitted at any time if a handheld hose fitted with a positive shut-off nozzle is used or a Low-Volume Irrigation System is used,

provided that the Low-Volume Irrigation System is not on an irrigation Station which operates at the same time as a sprinkler system.

(4) Water Users are prohibited from causing or permitting any water furnished to their properties/premises by the District to run or to escape from any hose, pipe, valve, faucet, sprinkler or irrigation device onto any sidewalk, parking lot, adjacent property, street or gutter or to otherwise escape, if such running or escaping can be prevented.

(5) Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the Water User's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected is prohibited. Upon receiving notice from the District of the existence of any such break, leak or other malfunction, Water Users shall identify the source of the water and within 48 hours, stop the source, by turning off the valve that supplies the water, and within 7 days, evaluate the extent of the problem and repair or correct same.

(6) Use of potable water in fountains or other decorative water features, except where the water is part of a recirculating system, is prohibited.

(7) Washing down of impervious surfaces, including but not limited to: walkways, patios, tennis courts, driveways, sidewalks or other paved surfaces (except in emergencies to remove spills of hazardous materials or eliminate dangerous conditions) is prohibited.

(8) Using a hose that dispenses potable water for any outside purpose (including the washing of a motor vehicle), except where the hose is fitted with a positive shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use, is prohibited.

(9) Watering of turf, ground cover, open ground, shrubbery, crops, gardens and trees, including agricultural irrigation, or any outdoor dispensing of water in a manner or to an extent which allows Excess Runoff is prohibited. However, a minimum amount of runoff, which is a natural consequence of conservative watering, either by hand or by mechanical or automated sprinkling facilities, is permitted, so long as such runoff does not amount to Excess Runoff as defined in this Chapter.

(10) Providing glasses of drinking water (except upon request) to customers in restaurants or other public places where food is routinely served is prohibited.

(11) Application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall is prohibited.

(12) Irrigation with potable water of ornamental turf on public street medians is prohibited.

(13) Irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

(14) It is prohibited to plant any Water-intensive Landscape or Turf:

- a. In any Right-of-Way, narrow pathway, parking strip, roadway median, or along foundations of buildings.
- b. Having a width of less than five (5) feet, unless adjacent to a planter bed or other landscaped area which will catch Overspray.

(15) All rehabilitated or New Non-residential Facilities shall limit Water-intensive Landscape and Turf within landscaped area to the following percentages of the total Lot area, and all other areas required to be landscaped with plants shall consist of plants on the WWP List as set forth in Section 10.05.050 of this Chapter:

- a. Churches: Twenty five percent (25%) of total lot area.
- b. Resorts, including hotels and motels: Ten percent (10%) of the total lot area.
- c. Commercial and industrial uses, fewer than nine thousand square feet: Ten percent (10%) of the total lot area.
- d. Commercial and industrial uses, nine thousand square feet and greater: Ten percent (10%) of the first nine thousand square feet, and five percent (5%) of the remaining lot area.
- e. Common areas in residential developments: Ten percent (10%) of the first acre and five percent (5%) of each additional acre up to five acres. Residential developments larger than five acres shall not plant any additional water intensive landscape and turf in common areas.
- f. Active Recreational Area shall not be considered in calculating the percentage of the total Lot area and shall not be considered in determining compliance with this Section.

(16) Any rehabilitated or New Model Homes and/or rehabilitated or New Residential Developments shall limit Water-intensive Landscape and Turf area at

the following percentages of the total Lot area, and all remaining landscaped area, as required by the City's development standards, shall consist of Water-wise Plants described in Section 10.05.050 of this Chapter:

- a. Nine thousand square feet or less: Ten percent (10%) of the total lot area.
- b. Greater than nine thousand square feet to one acre: Ten percent (10%) of the first nine thousand square feet and five percent (5%) of the remainder of the lot area.
- c. Water intensive landscape or turf shall only be located in rear yards.
- d. No Water-Intensive Landscape or Turf shall be planted in any Right-of-Way.
- e. Prior to closing on a new residential unit, the developer shall provide the homeowner with a copy of the District's water conservation ordinance. Upon receipt, the homeowner shall sign an affidavit of acceptance. The developer shall permanently maintain the signed affidavit and submit a copy to the General Manager.

(c) During Conservation Stage 1, it shall be unlawful and a violation of this Chapter for any Water User to make, cause, use or permit the use of water in any manner contrary to the provisions of this Section.

10.05.070 Water Supply Shortage Contingency Plan; Declaration of Water Supply Shortage Conditions and /Stages.

(a) In accordance with this Section, the District Board shall require or impose water use reduction measures as are necessary for the District to comply with water use restrictions imposed by Federal, State or regional water agencies, or to respond to local or regional water shortage conditions and emergencies. Depending on the expected duration and severity of the shortage, such measures may include, but are not limited to, some or all of the actions listed in the District's WSSCP Stages 2 through 4 in Sections 10.05.090, 10.05.100 and 10.05.110 of this Chapter. Each elevated stage will include all of the elements of the previous stage(s), and are intended to be more restrictive than the previous stage(s). The Water Supply Shortage condition, response and use reduction percentages for each WSSCP stage are shown in the table in Section 10.05.080 of this Chapter.

(b) Based on changing conditions and the severity of the Water Supply Shortage, the General Manager will determine when Water Supply Shortage conditions exist and notify the District Board of the necessity to declare Water Supply Shortage emergencies and enact or rescind WSSCP Stages 2, 3 or 4 (collectively hereinafter "WSSCP Stages").

(c) Acting upon the recommendation of the General Manager, the District Board is authorized to enact or rescind any or all WSSCP Stages by adopting resolutions setting forth the criteria for implementation or termination of such WSSCP Stages, following publication of the declaration and notice of the public hearing to be held thereon, at least seven (7) days prior to the date of the hearing.

(d) Each declaration implementing or terminating a WSSCP Stage shall be published in a newspaper of general circulation in accordance with Government Code section 6061 and shall designate the entire area of the District or the affected portion thereof if the shortage is not District-wide. A notice shall also be included in the water customer bills mailed for the billing cycle immediately following the date a resolution declaring or implementing a WSSCP Stage change is adopted.

(e) It is the responsibility of all property owners to notify any Person(s) that use their premises, including, but not limited to, weekend rentals, multi-unit apartments, motels and commercial buildings, of any water use restrictions and the WSSCP Stage currently in effect.

(f) The General Manager will review Water User data District-wide based on gallons per capita per day (GPDC) for at least the past twelve (12) consecutive months in order to calculate the baseline water usage amount for purposes of determining the reduction demand requirements as a percentage.

10.05.080 WSSCP TABLE - Condition/Response Stages; Reduction Requirement.

<i>Water Supply Condition/ Demand Reduction Requirement</i>	<i>Year-round Water Conservation</i>	<i>Water Shortage Response Stage</i>
Year-Round Water Conservation Water waste prohibitions/mandatory restrictions in effect.	Stage 1	
Threatened Water Supply Shortage Ten percent (10%) to twenty-eight percent (28%) reduction.		Stage 2
Critical Water Supply Shortage Twenty-nine percent (29%) to forty percent (40%) reduction.		Stage 3
Emergency Water Supply Shortage Forty-one percent (41%) or more required.		Stage 4

10.05.090 WSSCP Threatened Water Supply Shortage – Shortage Stage 2.

(a) A Stage 2 Threatened Water Supply Shortage (“Shortage Stage 2”) shall be in effect when the District’s ability to provide water for ordinary domestic and commercial uses may be adversely impaired or threatened. Shortage Stage 2 will be implemented when a ten percent (10%) to twenty-eight percent (28%) reduction in Total Potable Water Production or water usage must be met. The actual percentage reduction required (based on State conservation mandates and other contributing factors) will be indicated in the District resolution enacting Shortage Stage 2.

(b) During Shortage Stage 2, all prohibitions contained in Section 10.05.060 (Conservation Stage 1) shall continue, and the following additional provisions and prohibitions shall also be in effect:

(1) Summer Outdoor Sprinkler Restrictions - From June 1, through September 30, it shall be prohibited to:

a. Apply potable water to any outdoor landscape at properties with street addresses ending in an even number (0,2,4,6, or 8) except on Tuesdays, Thursdays, or Saturdays between the hours of 10:00 pm and 6:00 am.

b. Apply potable water to any outdoor landscape at properties with street addresses ending in an odd number (1,3,5,7, or 9) except on Wednesdays, Fridays, and Sundays between the hours of 10:00 pm and 6:00 am.

c. Apply potable water to any outdoor landscape at facilities such as schools, parks, cemeteries, golf courses or industrial sites and areas without street address numbers, such as landscape maintenance assessment districts (“LMADS”), except on Mondays, Tuesdays, Thursdays, Fridays and Sundays, between the hours of 10:00 p.m. and 9:00 a.m., unless such facilities have Large Systems with approved Reduction Plans. Water Users at facilities with approved Reduction Plans may water in accordance with the provisions of those Reduction Plans so long as the Water Users maintain full compliance with the provisions of such Reduction Plans. Water Users which fail to meet the minimum required Reduction Plan percentage during any one (1) billing cycle more than two (2) times in one twelve-month period, shall not be considered in full compliance and must immediately resume watering in accordance with the first sentence of this Subsection c. Failure to immediately resume watering in accordance therewith shall constitute a violation of this Chapter.

(2) Winter Outdoor Sprinkler Restrictions - from October 1 through May 31, it shall be prohibited to:

- a. Apply potable water to any outdoor landscape at properties with street addresses ending in an even number (0,2,4,6, or 8) except on Tuesdays, Thursdays, or Saturdays between the hours of 9:00 a.m. and 3:00 p.m.
 - b. Apply potable water to any outdoor landscape at properties with street addresses ending in an odd number (1,3,5,7, or 9) except on Wednesdays, Fridays, and Sundays between the hours of 9:00 a.m. and 3:00 p.m.
 - c. Apply potable water to any outdoor landscape at facilities such as schools, parks, cemeteries, golf courses or industrial sites and areas without street address numbers, such as landscape maintenance assessment districts (“LMADS”) except on Mondays, Tuesdays, Thursdays, Fridays and Sundays, between the hours of 9:00 a.m. and 3:00 p.m., unless such facilities have Large Systems with approved Reduction Plans. Water Users at facilities with approved Reduction Plans may water in accordance with the provisions of those Reduction Plans so long as the Water Users maintain full compliance with the provisions of such Reduction Plans. Water Users which fail to meet the minimum required Reduction Plan percentage during any one (1) billing cycle more than two (2) times in one twelve-month period, shall not be considered in full compliance and must immediately resume watering in accordance with the first sentence of this Subsection c. Failure to immediately resume watering in accordance therewith shall constitute a violation of this Chapter.
- (3) Fall overseeding of Turf areas, unless irrigated with Reclaimed Water for non-residential water intensive landscape, shall be prohibited.
 - (4) Using water for washing of motor vehicles is prohibited, except when done by commercial car wash facilities equipped with a recirculation system.
 - (5) All swimming pools, spas and hot tubs must be covered when not in use.
 - (6) Exterior landscape plans for all new multi-family, commercial and industrial development must be presented to and approved by the District prior to issuance of a will serve letter.
- (c) During Shortage Stage 2, it shall be unlawful and a violation of this Chapter for any Water User to make, cause, use or permit the use of water in any manner contrary to the provisions of this Section.

10.05.100 WSSCP Critical Water Supply Shortage – Shortage Stage 3.

- (a) A Stage 3 Critical Water Supply Shortage (“Shortage Stage 3”) shall be in effect when the District’s ability to provide water for ordinary domestic and commercial uses may be critically impaired or threatened. Shortage Stage 3 will be implemented when a twenty-nine percent (29%) to forty percent (40%) reduction in

Total Potable Water Production or water usage must be met. The actual percentage reduction required (based on State conservation mandates and other contributing factors) will be indicated in the District resolution enacting Shortage Stage 3.

(b) During Shortage Stage 3, all prohibitions contained in Section 10.05.060 (Conservation Stage 1) and Section 10.05.090 (Shortage Stage 2) shall continue, and the additional provisions and prohibitions set forth below shall also be in effect:

(1) Use of water from fire hydrants shall be limited to firefighting or other authorized or approved water uses that are necessary to maintain health, safety, and welfare.

(2) The use of water from fire hydrants and dispersed for purposes other than those shown in paragraph (1), above, is prohibited. All existing construction meters shall be removed and no installation of or new construction meters shall be permitted.

(3) Outdoor irrigation is only permitted during the specified months and on such days and hours as specified in the subdivision of Sections 10.05.090(b)(1) and (2) of this Chapter if a handheld hose fitted with a positive shut-off nozzle is used or a Low-Volume Irrigation System is used, provided such system is not on an irrigation Station which operates at the same time as a sprinkler system. Reduction Plans will not be available for facilities with Large Systems unless otherwise specified in the District resolution enacting Stage 3.

(4) It shall be unlawful to use a sprinkler system in the irrigation of outdoor landscaping of any kind.

(c) During Shortage Stage 3, it shall be unlawful and a violation of this Chapter for any Water User to make, cause, use or permit the use of water in any manner contrary to the provisions of this Section.

10.05.110 WSSCP Emergency Water Supply Shortage – Shortage Stage 4.

(a) An Emergency Water Supply Shortage Stage 4 (“Shortage Stage 4”) shall be in effect when a disaster or other major disruption in the water supply or any emergency that prevents the District from meeting the water demands of water users is threatened or exists. Shortage Stage 4 will be implemented when a Total Potable Water Production or water usage reduction in excess of forty-one percent (41%) is needed.. The actual percentage reduction required (based on State conservation mandates and other contributing factors) will be indicated in the District resolution enacting Shortage Stage 4.

(b) During Shortage Stage 4, no new will serve letters or hydrant flow meter permits will be issued, and all prohibitions contained in Section 10.05.060 (Conservation Stage 1), Section 10.05.090 (Shortage Stage 2), and Section

10.05.100 (Shortage Stage 3) shall continue. In addition, the following provisions and prohibitions shall also be in effect during Shortage Stage 4:

(1) The watering of Turf, lawns, grass, shrubbery, ground cover or other outdoor landscaping with potable water at any time is prohibited; the watering of parks, school grounds and golf courses with potable water also is prohibited.

(2) The use, filling or adding of water to swimming pools or spas of any size, fountains, ponds, water courses, waterfalls and other artificial water structures filled or refilled with water from any source is prohibited.

(3) The washing of vehicles, trucks, trailers, boats, airplanes, and other types of mobile equipment with potable water, is prohibited unless such washing is necessary for the immediate interest of the public health or safety, and such washing occurs upon the immediate premises of commercial vehicle washes using recirculated water.

(4) All existing nurseries shall discontinue all potable irrigation watering.

(c) During Shortage Stage 4, it shall be unlawful and a violation of this Chapter for any Water User to make, cause, use or permit the use of water in any manner contrary to the provisions of this Section.

10.05.120 Hardship Exceptions.

(a) The General Manager may grant exceptions (“Hardship Exceptions”) for uses of water otherwise prohibited under the provisions of this Chapter if he/she finds that special circumstances make compliance impossible or that applying the restrictions herein would cause an emergency condition affecting the health, sanitation, fire protection ability or safety of the Water User (or the public) or would create an unnecessary and undue hardship to the Water User.

(b) Hardship Exceptions may be granted only upon written application by the Water User made to the General Manager on a form provided by the District. The application must state the nature of the hardship and include all facts and circumstances supporting the requested exception. The General Manager shall review such applications and provide a written determination to the Water User advising of his/her decision, which written determination shall include the reasons supporting the determination. If a Hardship Exemption is granted, the General Manager may impose in the written determination any conditions and/or terms he/she finds to be just and proper under the circumstances. If the General Manager determines no Hardship Exception is warranted, the Water User may appeal the General Manager’s decision in the manner set forth in Section 10.05.200.

10.05.130 Reclaimed water pipelines.

(a) Reclaimed water pipelines in new residential tract developments shall be installed in accordance with the provisions of District's Recycled Water Ordinance. Such pipelines shall be connected to the District's Reclaimed water system, where available and/or appropriate. The foregoing requirements are not applicable to individual residential Lots.

(b) It is District policy to encourage the use of Reclaimed water, whenever such use is appropriate and safe, in order to conserve potable water. To further these efforts, all Water Users with Reclaimed water pipelines should make reasonable efforts to use Reclaimed water for landscaping purposes, whenever Reclaimed water is readily available and will not pose a danger to human health and safety.

10.05.140 Limited exemption to restrictions for users of Reclaimed water.

To the extent that users of Reclaimed or Recycled Water are exempted from restrictions under the WSSCP Stages set forth in this Chapter, such users shall clearly post notices stating that the water being used is not potable, not from the public drinking water supply, and is in conformance with the District's WSSCP.

10.05.150 Enforcement.

Enforcement Officers (as defined in Section 10.05.030 of this Chapter) shall be empowered to investigate instances of Water Waste and enforce all provisions of this Chapter. Enforcement Officers will issue any notice of violation ("NOV") or administrative citation in accordance with the provisions of this Chapter.

10.05.160 Administrative Citations and Administrative Fines.

(a) Any Person or Water User violating any provision of this Chapter may be issued an administrative citation by an Enforcement Officer as provided for in this Chapter.

(b) Each and every day a violation of any provision of this Chapter exists constitutes a separate and distinct violation. Each provision of this Chapter which is violated also constitutes a separate violation.

(c) An Administrative Fine for violations of any provisions of this Chapter may be assessed by means of an administrative citation issued by an Enforcement Officer. Administrative Fines so assessed shall be payable directly to the District.

(d) Administrative Fines assessed by means of administrative citations shall be due and payable as set forth in the administrative citation and shall be collected in accordance with the District's currently-effective Water Regulations and Service provisions as adopted by ordinance (presently codified in Chapter 10.04 of this Code).

10.05.170 Notices of Violation and Administrative citations; service and posting.

(a) Upon discovery or observing any violation of this Chapter for which an Administrative Fine has been prescribed, the Enforcement Officer may issue a NOV prior to an administrative citation to the Responsible Person(s), which NOV shall be delivered in accordance with the provisions of this Section. The NOV and administrative citation shall be issued on forms prescribed by the General Manager.

(b) The Enforcement Officer may obtain the signature of the Responsible Person(s) on the NOV or administrative citation. If the Responsible Person(s) refuses or fails to sign the NOV or administrative citation, the failure or refusal to sign shall not affect the validity of the NOV or administrative citation or any subsequent proceedings.

(c) The Enforcement Officer shall hand-deliver the NOV or administrative citation to the Responsible Person(s) at the premises where the violation occurred, or if no Responsible Person(s) are present, shall post the NOV or administrative citation by affixing it to a surface in a conspicuous place on the premises where the violation occurred. Failure of a NOV or administrative citation to remain in place after posting shall in no way affect the validity of the NOV or administrative citation or any subsequent proceedings.

(d) The Enforcement Officer shall also mail a copy of the NOV or administrative citation (by first class mail, postage prepaid and by certified mail, return receipt requested) to the address of the Water User (customer) account associated with the premises where the violation occurred, and to the address of any other Responsible Person(s) known to the District. The failure of the person to whom the NOV or administrative citation is addressed to receive the NOV or administrative citation shall not affect the validity of the NOV, the administrative citation or any subsequent proceedings.

(e) The NOV and administrative citation shall include all of the following:

- (1) A brief description of the violation(s) or repeat of violation(s);
- (2) The date and approximate time of the violation and the location at which the violation(s) was observed;
- (3) The Section of this Chapter violated;
- (4) The corrective action required;
- (5) The time frame in which the violation(s) must be corrected or abated (not less than twenty-four (24) hours after delivery of the NOV or administrative citation or within such time as the Enforcement Officer determines is reasonable

under the circumstances); but in no event later than fourteen (14) days from the date the violation was first observed;

(6) The consequences of the failure to correct the violation, including the amount of any Administrative Fine to be imposed for the violation(s), and a statement explaining that each day violation(s) are not abated after the specified deadline constitute new violation(s) for which additional NOV's and administrative citations may be issued, and for which additional Administrative Fines may be assessed;

(7) A statement advising that any Administrative Fines shall be placed on the water utility bill of the Water User (customer) account associated with the premises upon which the violation occurred, to be paid and collected in accordance with the District's currently-effective Water Regulations and Service provisions as adopted by ordinance (currently codified in Chapter 10.04 of this Code); and

(8) A statement describing the rights of appeal.

10.05.180 Administrative Fine Schedule.

(a) Administrative Fines shall be assessed as follows:

(1) For a first violation of any prohibition of this Chapter prior to the issuance of an administrative citation, a NOV shall be issued in accordance with the procedures for service and posting set forth in Section 10.05.170 of this Chapter. The NOV will include a copy of this Chapter (or a summary thereof).

(2) For violation(s) of any prohibitions during Conservation Stage 1, Administrative Fines may be assessed for each violation of the provisions of Section 10.05.060 in the amount of one hundred dollars (\$100.00).

(3) For violation(s) of any prohibitions during Shortage Stage 2, Administrative Fines may be assessed for each violation of the provisions of Section 10.05.090 in the amount of two hundred dollars (\$200.00).

(4) For violation(s) of any prohibitions during Shortage Stage 3, Administrative Fines may be assessed for each violation of the provisions of Section 10.05.100 in the amount of three hundred dollars (\$300.00).

(5) For violation(s) of any prohibitions during Shortage Stage 4, Administrative Fines may be assessed for each violation of the provisions of Section 10.05.110 in the amount of five hundred dollars (\$500.00).

(b) The General Manager or his/her designee may waive any Administrative Fine or portion thereof assessed under this Section pursuant to written procedures (to be

developed by the General Manager) wherein mitigating circumstances or other conditions make the imposition of the Administrative Fine unreasonable.

(c) If the Responsible Person(s) fails to correct the violation(s), subsequent NOVs, administrative citations and fines may be issued for the same violation(s).

(d) Payment of the Administrative Fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action up to and including discontinuance of water service (following the notice specified in Section 10.05.190(c) of this Chapter.

(e) Any fines imposed under this Section shall be collected in accordance with the District's currently-effective Water Regulations and Service provisions as adopted by ordinance (presently codified in Chapter 10.04 of this code). Such fines shall be deposited in the District's general fund.

10.05.190 Other Enforcement Remedies; Penalties Cumulative.

(a) Misdemeanor. In lieu of the Administrative Fines and other enforcement measures provided in this Chapter, or any other applicable remedies available to the District, pursuant to Water Code section 377, violations of this Chapter 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 one thousand dollars (\$1,000), or by both.

(b) Civil suits and Injunctive Relief. In addition to any other remedies provided in this Chapter or available under applicable law, the District may alternatively file a civil suit and/or seek injunctive relief in a court of competent jurisdiction.

(c) Discontinuation of Water Service. In addition to Administrative Fines or other remedies, the District, after providing a fifteen (15) day written advance notification (to be served in the manner set forth in Section 10.05.170), may disconnect a Water User's service for repeated violations of this Chapter occurring during Shortage Stages 2 through 4, subject to the appeal process in Section 10.05.200.

(d) Penalties Cumulative. Penalties for failure to comply with any of the provisions of this Chapter are cumulative and each day that a violation of this Chapter occurs is a separate violation and may be treated as such.

10.05.200 Appeals.

(a) Recipients of NOVs, administrative citations and such other Persons as are provided a right of appeal by Sections 10.05.120(b) and 10.05.190(c) of this Chapter shall have the appeal rights set forth herein. An appeal must:

(1) Be submitted and received by the General Manager at the District Offices located at 14343 Civic Drive, Victorville, CA 92393-5001 within ten (10) calendar days from date of delivery or mailing of the NOV (or other written notice), or within ten days of the date a Hardship Exception under Section 10.05.120 is denied. If the deadline falls any day the District Offices are closed, then the deadline shall be extended until the next regular business day when the District Offices are open.

(2) Be in writing, legible and indicate a return address;

(3) Be accompanied by the amount of the Administrative Fine (or an appeal fee amount to be set by resolution of the District Board for appeals not associated with an Administrative Fine) or a hardship waiver request;

(4) Specify the basis for the appeal in detail and include a copy of the NOV, administrative citation or other notice/decision and any supporting evidence or mitigating circumstances.

(b) Upon a timely receipt of the written notice of appeal, the General Manager shall transmit same to the Hearing Officer, who shall as soon as practicable, fix a date, time, and place for appeal hearing. Written notice of the date, time, and place of the hearing will be served by first class mail to the Appellant, postage prepaid at the return address indicated on the written appeal. Service of the appeal notice must be made on the Appellant at least ten (10) calendar days prior to the date of the hearing.

(c) Appellant's timely submitted written request for an appeal hearing shall not stay the imposition of an Administrative Fine, and during the pendency of the appeal violations may still be cited and the District may take any action under this Chapter or provided for at law to address, abate, or otherwise remedy any ongoing violations. However, if it is determined by the Hearing Officer that the Administrative Fine was wrongly charged and paid, the District shall credit any amount due to the Water User's next bill and issue a check for any surplus should the Water User so request.

(d) Appellant's timely submitted written request for an appeal hearing shall stay the discontinuation of water service during the pendency of the appeal; however, violations may still be cited during the pendency of the appeal and the District may take any action under this Chapter or provided for at law to address, abate, or otherwise remedy any ongoing violations.

(e) The failure of Appellant or any other Person with an interest in the matter to receive a properly addressed notice of the hearing shall not affect the validity of any proceedings under this Chapter. Service by first class mail, postage prepaid, and via certified mail, return receipt requested shall be effective on the date of mailing.

(f) The failure of Appellant, or any other Person with an interest in the matter, to file an appeal in accordance with the provisions of this Section shall constitute a

waiver of those Persons' rights to an administrative determination of the merits of the NOV, administrative citation (or other written notice or decision) and a waiver of the right to contest the amount of the Administrative Fine. If no appeal is filed, the NOV, administrative citation, written notice ordering discontinuation of water service and/or the General Manager's written denial of a Hardship Exception shall each be deemed a final administrative order.

(g) In addition to the provisions below, the General Manager may establish other administrative regulations for implementing this Section, conducting hearings and rendering decisions:

(1) The Hearing Officer shall conduct all appeal hearings held in connection with this Chapter.

(2) The Appellant may request the General Manager excuse the Hearing Officer for reasons of actual prejudice against the Appellant's cause.

(3) The Hearing Officer shall conduct an orderly, fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs as follows:

a. The Hearing Officer shall accept testimony by declaration under penalty of perjury relating to the violation;

b. The Responsible Person(s) or any other interested Person may present testimony or evidence concerning the violation.

(h) The Hearing Officer may reduce, waive, or conditionally reduce the Administrative Fines assessed pursuant to an administrative citation or any late fees assessed, if mitigating circumstances are shown and the Hearing Officer states specific grounds for reduction or waiver in the written decision. The Hearing Officer may impose conditions and deadlines for correction of violations, payment of outstanding fines, resumption of water service and other appropriate relief.

(i) The Hearing Officer shall make findings based on the record of the hearing and make a written decision based on the findings. The Hearing Officer shall preserve all exhibits submitted by the parties and shall serve the decision by first class mail on the Appellant within ten (10) working days after the hearing. The decisions of the Hearing Officer are final and conclusive administrative orders, subject only to review by the Superior Court. There are no appeals to the District Board.

10.05.210 Review of Final Order.

After receipt of the Hearing Officer's decision, the Appellant may file for de novo review in the Superior Court in accordance with the provisions of Government Code section 53069.4(b).

SECTION 3. SEVERABILITY.

The District Board declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION 4. CONFLICTING PROVISIONS.

The provisions of this Ordinance are in addition to all other District Regulations for Water Service, and in the event of a conflict between this Ordinance and other rules and regulations relating to the same subject matter, the conflict shall, insofar as practical, be resolved to implement the purposes of this Ordinance.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon the date of adoption as set forth in Water Code section 376.

SECTION 6. PUBLICATION.

Following its adoption, the District Secretary shall certify to the passage of and publish this Ordinance in accordance with the provisions of Water Code section 376.