

ORDINANCE NO. 09-01

**ORDINANCE OF THE BOARD OF DIRECTORS OF THE
YORBA LINDA WATER DISTRICT INSTITUTING WATER CONSERVATION
MEASURES, PROHIBITION AGAINST WATER WASTE AND WATER
SHORTAGE SUPPLY CONTINGENCIES**

- WHEREAS,** California has had one of the driest years on record, with eight of the past ten years meeting drought-level conditions; and
- WHEREAS,** storage in the Colorado River system has dropped to fifty-five (55) percent of total capacity; and
- WHEREAS,** the flow of the California Aqueduct has been restricted by up to thirty-five (35) percent, due to a federal court ruling to protect the Delta Smelt; and
- WHEREAS,** the Governor of the State of California proclaimed a statewide drought and issued a State of Emergency to address the California water shortage, requesting that all water users reduce their water use by twenty (20) percent and asking all water agencies to assist their customers in reducing their use through a water conservation program; and
- WHEREAS,** the Orange County Grand Jury investigated solutions into the looming water crisis in California and recommends in its report for local water agencies a goal of ten-percent voluntary conservation, a focus on outdoor usage, the development of monthly allocations for each customer and the implementation of conservation-inducing pricing; and
- WHEREAS,** the Metropolitan Water District of Southern California is currently in a "Water Supply Alert" phase and urges implementation of "extraordinary conservation measures", such as conservation pricing, outdoor water restrictions, prohibition of runoff, enhanced rebates, and coordination with the Municipal Water District of Orange County to develop a unified regional message and to accelerate media and outreach campaigns; and
- WHEREAS,** the Metropolitan Water District of Southern California is requiring ordinances from all agencies that receive rebate incentives detailing water conservation measures, prohibitions against water waste and associated penalties; and
- WHEREAS,** the Municipal Water District of Orange County, the agency responsible for providing the Yorba Linda Water District with imported water through the Metropolitan Water District, has enacted a resolution asking every Orange County resident and business to immediately reduce their water usage by ten-percent (10); and

WHEREAS, the Orange County Water District, the agency responsible for supervising the Orange County Groundwater Basin, has implemented the “OC Water Hero” public education campaign, urging customers to conserve twenty gallons of water per person, per day; and

WHEREAS, the Yorba Linda Water District has broad authority to enact water conservation rules under the laws of the State of California; and

WHEREAS, the adoption of water conservation measures would assist in avoiding or minimizing the effects of water supply restrictions and a water shortage in Southern California.

NOW, THEREFORE, BE IT ORDAINED, under the authority of Water Code §§ 350 and 31028, that the Board of Directors of the Yorba Linda Water District, does hereby **FIND AND DETERMINE** that matters set forth in the above recitals are true and correct, and that the Board of Directors of the Yorba Linda Water District therefore **DECLARES** the existence of an emergency caused by drought or other threatened or existing water shortage; and

THEREFORE, BE IT ORDAINED, under the authority of Water Code §§ 350 and 31028, that the Board of Directors of the Yorba Linda Water District, does hereby **FIND, DETERMINE AND DECLARE** that water conservation measures and restriction on the use of District water are necessary and appropriate to protect the health and safety of water users within the Yorba Linda Water District; and

THEREFORE, BE IT ORDAINED, under authority of Water Code §§ 353 and 31026, that the Board of Directors of the Yorba Linda Water District, based upon the findings set forth herein, does hereby **PROHIBIT** the wastage of District water and does hereby **ORDER** that the following water conservation measures and water use restrictions are necessary and appropriate to prevent the waste of District water and to protect the health and safety of water users with the Yorba Linda Water District. These measures will be effective as of July 1, 2009.

SECTION 1: Permanent Water Conservation Measures and Prohibitions Against Water Waste.

A. The following water conservation requirements are effective at all times and are permanent. Violations of this section will be considered waste and an unreasonable use of water.

1. Limits on Watering Hours

Watering or irrigation of lawn, landscape or other vegetated area is prohibited between the hours of 9:00 a.m. and 6:00 p.m. on any day, or between hours later designated by the District, except for the express purpose of adjusting or repairing an irrigation system. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip irrigation where no emitter produces more than two (2) gallons of water per hour.

2. Limit on Watering Duration

Watering or irrigating of lawn, landscape or other vegetated area is limited to fifteen (15) minutes watering per station per day. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip irrigation where no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

3. No Watering During Rain

Watering or irrigating of lawn, landscape or other vegetated area is prohibited when it is currently raining or there is a forecasted chance of rain of fifty (50) percent or higher.

4. No Excessive Water Flow or Runoff

Water or irrigation of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.

5. No Washing Down Hard or Paved Surfaces

Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alley, is prohibited except when necessary to alleviate safety or sanitary hazards and then only by use of a hand-held bucket or similar container, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

6. Obligation to Fix Leaks, Breaks, or Other Malfunctions

Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system, including that of irrigation systems, beyond a reasonable period of time after such escape of water should have been discovered and corrected, and in no event more than three (3) calendar days of receiving notice from the District, is prohibited.

7. Re-circulating Water Required for Water Fountains and Decorative Water Features

Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

8. Limits on Washing Vehicles

Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container and/or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

9. Drinking Water Served Upon Request Only

Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

10. Commercial Lodging Establishments Must Provide Guests the Option to Decline Daily Linen Services
Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.
11. No Installation of Single Pass Cooling Systems
Installation of single pass cooling systems is prohibited in buildings requesting new water service.
12. No Installation of Non-re-circulating water system in Commercial Laundry Systems
Installation of non-re-circulating water systems is prohibited in new commercial laundry systems.
13. Restaurants Required to Use Water Conserving Dish Wash Spray Valves
Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.
14. Commercial Car Wash Systems
Effective on July 1, 2009, all new commercial conveyor car wash systems must have installed operational re-circulating water systems, or must have secured a waiver of this requirement from the District.

**SECTION 2: Stage 1 - Water Supply Shortage
(Water Use Reduction Goal – up to 10%)**

- A. A Stage 1 Water Supply Shortage exists when the District determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions, or without prior Board approval when the Metropolitan Water District of Southern California changes its Water Supply Alert stage to “Condition 2: Water Supply Alert”.
- B. In addition to the prohibited uses of water identified as permanent water conservation measures and prohibitions against water waste (Section 1), the following water conservation requirements apply during a declared Stage 1 Water Supply Shortage.
 1. Limits on Watering Days
Watering or irrigation of lawn, landscape or other vegetated area is limited to three (3) calendar days per week, in which odd numbered addresses are permitted to irrigate on Monday, Wednesday and Friday, and even numbered addresses are permitted irrigate Tuesday, Thursday and Saturday. No irrigation is permitted on Sunday. This subsection does not apply to any landscape irrigation system that exclusively use very low-flow drip irrigation where no emitter produces more than two (2) gallons of water

per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

**SECTION 3: Stage 2 - Water Supply Shortage
(Water Use Reduction Goal- up to 20%)**

- A. A Stage 2 Water Supply Shortage exists when the District determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions, or without prior Board approval when the Metropolitan Water District of Southern California changes its Water Supply Alert stage to “Condition 3: Water Supply Allocation of 5% through 15%”.
- B. In addition to the prohibited uses of water identified as permanent water conservation measures and prohibitions against water waste (Section 1), the following water conservation requirements apply during a declared Stage 2 Water Supply Shortage:

1. Limits on Watering Days

Watering or irrigation of lawn, landscape or other vegetated area in the months of April through October, is limited to three (3) calendar days per week in which odd numbered addresses are permitted to irrigate on Monday, Wednesday and Friday, and even numbered addresses are permitted to irrigate on Tuesday, Thursday and Saturday. No irrigation is permitted on Sunday. In the months of November through March, irrigation is limited to two (2) calendar days per week, in which odd numbered addresses are permitted to irrigate Monday and Friday, and even numbered addresses are permitted to irrigate Tuesday and Saturday. This subsection does not apply to any landscape irrigation system that exclusively uses very low-flow drip irrigation where no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

2. Obligation to Fix Leaks, Breaks, or Other Malfunctions

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 reasonably have been discovered and corrected and in no event more than two (2) calendar days of receiving notice from the District, is prohibited.

**SECTION 4: Stage 3 - Water Supply Shortage
(Water Use Reduction Goal- up to 35%)**

- A. A Stage 3 Water Supply Shortage exists when the District determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions, or without prior Board approval when the Metropolitan

Water District of Southern California changes its Water Supply Alert stage to “Condition 3: Water Supply Allocation of 20% through 35%”.

In addition to the prohibited uses of water identified as permanent water conservation measures and prohibitions against water waste (Section 1), the following water conservation requirements apply during a declared Stage 3 Water Supply Shortage:

1. Limits on Watering Days

Watering or irrigation of lawn, landscape or other vegetated area in the months of April through October is limited to two (2) calendar days per week, in which odd numbered addresses are permitted to irrigate on Monday and Friday, and even numbered addresses are permitted to irrigate on Tuesday and Saturday. In the months of November through March, is limited to one (1) calendar day per week, in which odd numbered addresses are permitted to irrigate on Monday only and even numbered addresses are permitted to irrigate Saturday only. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip irrigation where no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

2. Limits on Filling Swimming Pools & Spas

Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas is prohibited.

**SECTION 5: Stage 4 - Water Supply Shortage - Emergency Condition
(Water Use Reduction Goal- 40% or Greater)**

A. A Stage 4 Water Supply Shortage is also referred to as an “emergency” condition. A Stage 4 Water Supply Shortage exists when the District declares, in its sole discretion, a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety, or without prior Board approval when the Metropolitan Water District of Southern California changes its Water Supply Alert stage to “Condition 3: Water Supply Allocation of 40% or greater”.

B. In addition to the prohibited uses of water identified as permanent water conservation measures and prohibitions against water waste (Section 1), the following water conservation requirements apply during a declared Stage 4 Water Supply Shortage:

1. No Watering or Irrigating

Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use:

- a. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;

- b. Maintenance of existing landscape necessary for fire protection;
 - c. Maintenance of existing landscape for soil erosion control;
 - d. Actively irrigated environmental mitigation projects.
2. Obligation to Fix Leaks, Breaks, or Other Malfunctions
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 reasonably have been discovered and corrected and in no event more than one (1) calendar day of receiving notice from the District, is prohibited.
 3. No New Water Service
Upon declaration of a Stage 4 Water Supply Shortage Emergency condition, no new water service will be provided and no new temporary meters or permanent meters will be provided, except as is necessary to protect the public health, safety, and welfare.

SECTION 6: Hardship Variance

- A. If, due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water users, then the person may apply for a variance to the requirements as provided in this section.
 1. Written Finding
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 water or to property upon which water is used, that is disproportionate to the impacts to 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.
 2. Application
Application for a variance must be on a form prescribed by the Yorba Linda Water District (Exhibit A) and accompanied by a \$25 non-refundable processing fee.
 3. Supporting Documentation
The application must be accompanied by photographs, maps, drawings, and other information showing why the request should be granted, including a written statement of the applicant.
 4. Required Findings for Variance
An application for a variance will be denied unless the District 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 District, all of the following:

- a. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
- b. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;
- c. That the authorizing of such variance will not be of substantial detriment to adjacent properties and will not be detrimental to the public interest; and
- 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.
- e. That conservation is already being accomplished through the previous installation of water saving features.

5. Approval Authority

The General Manager's Designee shall promptly act upon any completed application no later than seven (7) calendar 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 (Exhibit J). Unless specified otherwise at the time a variance is approved, the variance will apply to the subject property during the period of the mandatory water supply shortage condition and if approved or conditionally approved, will apply from the date of approval only. Any previous violations and/or subsequent penalties are final. The decision of the General Manager's Designee can be appealed to the General Manager by written notice within seven (7) calendar days of the date of the denied waiver. The General Manager shall act upon an appeal within thirty (30) calendar days of the District's receipt of the applicant's appeal. The General Manager's decision shall be final.

6. Previous Violations

Any approved or conditionally approved waiver is valid from the date in which it was approved or conditionally approved forward. Any previous violations and subsequent fines or penalties associated with those violations are final and will not be reimbursed.

SECTION 7: Penalties and Violations

- A. Violations of any provisions of the ordinance herein must be personally observed by members of the District staff able to personally attest to them. The fines for such violations will be collected on the water bill. Failure to pay a fine amount will be treated as nonpayment of the water bill and water service may be terminated as

a result. Protests for violations are allowable per Section 8 of this ordinance. The fines for such violations are as follows:

1. First Violation

The Yorba Linda Water District will hand deliver a door hanger (Exhibit B) to the location of the violation and will also mail a Notice of First Violation (Exhibit C) to the current billing address.

2. Second Violation

A second violation within twelve (12) calendar months of the first violation is punishable by a penalty not to exceed one hundred dollars (\$100). This amount will be added to the next water bill fifteen days after the date of the violation, if not protested. The Yorba Linda Water District will hand deliver a door hanger (Exhibit B) to the location of the violation and will also send a Notice of Second Violation (Exhibit D) to the current billing address.

3. Third Violation

A third violation within twelve (12) calendar months of the first or second violation is punishable by a penalty not to exceed two hundred and fifty dollars (\$250). This amount will be added to the next water bill fifteen days after the date of the violation, if not protested. The Yorba Linda Water District will hand deliver a door hanger (Exhibit B) to the location of the violation and will also send a Notice of Third Violation (Exhibit E) to the current billing address.

4. Fourth and Subsequent Violations

A fourth and any subsequent violation within (12) calendar months of the first or any subsequent violation is punishable by a fine not to exceed five hundred dollars (\$500). This amount will be added to the next water bill fifteen days after the date of the violation, if not protested. The Yorba Linda Water District will hand deliver a door hanger (Exhibit B) to the location of the violation and will also send a Notice of Fourth and Subsequent Violations (Exhibit F) to the current billing address.

5. Water Flow Restrictor Device

In addition to any fines, the District, at the discretion of the General Manager, may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services. The restrictor will be installed by the District forty-eight (48) hours after a Notice of Intent to Install Flow Restrictor (Exhibit G) is sent to the current billing address. The restrictor will remain installed for a minimum of forty-eight (48) hours or such time as the General Manager, in his discretion, should decide.

6. Water Service Discontinuation

In addition to any fines and the installation of a water flow restrictor, the District, at the discretion of the General Manager, may disconnect a customer's water service for willful violations of mandatory restrictions listed herein. The discontinuation of service will be imposed by the District forty-eight (48) hours after a Notice of Intent to Discontinue

Service (Exhibit H) is sent to the current billing address, and will be imposed in the same process as disconnection pertaining to unpaid bills.

A person or entity that violates this ordinance is responsible for payment of the District's charges for installing and/or removing any flow restricting device and for disconnection and/or reconnecting service per the District's schedule of charges then in effect. The charge for installing and/or removing any flow restricting device must be paid to the District before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

- B. In the event that the individual responsible for the payment of the water bill is not the violator of the ordinance, notification of penalties will go to both the violation address and the billing address on file, with any and all fines and associated charges. Payment of the bill will be the final responsibility of the individual named on the account.

SECTION 8: Relief from Enforcement

- A. The District will issue a Notice of Violation (Exhibits C-F) by mail or personal delivery at least fourteen (14) calendar days before taking enforcement action, with the exception of fourth and subsequent violations. Such notice will describe the violation and the date by which corrective action must be taken. A customer wishing to protest the Notice of Violation must first seek administrative review by the District by filing a written Notice of Review (Exhibit I) with the District no later than fourteen (14) days from the date of notice. Any Notice of Violation not timely protested will be final. Upon receipt of a timely protest, the protest will be fully reviewed by the General Manager, with a Notice of Decision (Exhibit J) sent to the customer by mail within thirty (30) days of appeal. The District will only grant relief if the violation claimed is not in violation of the provisions of the Ordinance, the claim of violation is factually incorrect, or the District finds in its discretion that a violation did not occur. Should the District deny the customer relief, the customer may appeal the denial of the protest by filing a Form SC 100 with the Small Claims division of the Superior Court within 25 days of the District's decision to deny the protest. (Gov. Code, § 53069.4 (b)(1); Cal. Code of Civ. Pro., § 1013 (a).)

Pending receipt of a written appeal, and appeal to the Superior Court, the District may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water Stage condition. However, the District will not terminate water service while an appeal or hearing is still pending.

SECTION 9: This Ordinance is Controlling

To the extent that there is any inconsistency between this ordinance and the Urban Water Management Plan, any previous ordinances, resolutions, or other planning documents, or any other documents pertaining to water conservation or water use prohibitions, this ordinance shall prevail.

PASSED AND ADOPTED this 14th day of May, 2009 by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN

John W. Summerfield, President

ATTEST:

Kenneth Vecchiarelli, Secretary