

**ORDINANCE NO. 16-01**

**ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE YORBA LINDA WATER DISTRICT  
REPEALING ORDINANCE NO. 15-01 AND ADOPTING A FLEXIBLE  
WATER SHORTAGE ADMINISTRATIVE PENALTY STRUCTURE**

- WHEREAS,** on January 17, 2014 the Governor of California proclaimed a State of Emergency due to severe drought conditions and directed state officials to take all necessary actions to prepare for these drought conditions; and
- WHEREAS,** on April 25, 2014 the Governor of California issued an executive order that called on all Californians to redouble their efforts to conserve water; and
- WHEREAS,** on April 1, 2015, due to persisting drought conditions, the Governor of California issued an executive order that called for a statewide reduction in potable water use by 25%; and
- WHEREAS,** on May 6, 2015, emergency drought regulations, which were adopted by the State Water Resources Control Board (SWRCB), went into effect, setting conservation mandates for water suppliers; and
- WHEREAS,** the SWRCB established a conservation mandate for Yorba Linda Water District to reduce its potable water use by 36%; and
- WHEREAS,** the SWRCB may impose penalties of up to \$10,000 per day against Yorba Linda Water District for its failure to meet the 36% conservation mandate; and
- WHEREAS,** on May 11, 2015 the Board of Directors adopted Resolution No. 15-04, which determined that due to drought and other water supply conditions, a water shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing drought conditions; and
- WHEREAS,** on May 28, 2015, the Board of Directors adopted Ordinance No. 15-01, which imposed administrative penalties (hereinafter referred to as penalty or penalties) on District customers should their consumption exceed certain amounts; and
- WHEREAS,** on February 2, 2016, the SWRCB adopted an extended and revised emergency drought regulation to ensure that urban water conservation continues through October 2016 while providing urban water suppliers more flexibility in meeting their conservation requirements, including potential downward adjustments to urban water suppliers' conservation mandate that range from 2% to a maximum of 8%; and

**WHEREAS**, on February 22, 2016, the Yorba Linda Water District submitted an application to the SWRCB requesting the maximum downward adjustment of 8% from the District's 36% conservation mandate, which may be granted in whole, in part, or not at all, but the District is optimistic that it has satisfied SWRCB's requirements for an adjustment.

**WHEREAS**, as of March 1, 2016, the District and its customers have met the State mandated 36% cut in water usage; and

**WHEREAS**, in recognition of its customers significant reduction in water usage, it is the Board of Directors intent to repeal Ordinance No. 15-01 and its rigid application of penalties on District customers and replace it with a more flexible structure that will allow the Board of Directors to apply such penalties in accordance with its customers' water usage, the District's water shortage contingency ordinance (Ordinance No. 09-01), and the State's conservation mandate; and

**WHEREAS**, the penalties established and imposed herein are not for the purpose of recovering the cost of providing water service to Yorba Linda Water District's water customers.

**NOW THEREFORE BE IT ORDAINED**, under the authority of State law, including, but not limited to Sections 31026 and 31028 of the California Water Code and 53069.4 of the California Government Code, that the Board of Directors of the Yorba Linda Water District does hereby find that the above recitals are true and correct and therefore establish water use restrictions, and establish and impose penalties upon any customer who exceeds the water use restrictions, in order to (1) comply with the SWRCB's conservation mandate, (2) protect the District's water supplies, (3) reduce the quantity of water consumed, and (4) deter and prevent the waste or unreasonable use of valuable water resources.

**Section 1. Board Authority to Enact and Suspend Water Shortage Administrative Penalties by Resolution**

The appropriate stage of penalties may be enacted or suspended, by Board resolution, based on a Board finding regarding the District's customers' water usage, the District's water supply shortage stage under its water shortage contingency ordinance, the SWRCB's percentage of conservation mandate to the District, or any other finding consistent with this ordinance.

**Section 2. Stage of Water Shortage Administrative Penalties for Exceeding Mandatory Water Use Restrictions**

Upon resolution of the Board of Directors, each customer who has a potable water account with the District shall be subject to either no penalties under Stage No. 1 or the following penalties under Stage Nos. 2, 3, and 4 at the end of their respective billing cycle should their usage exceed the amounts set forth below:

A. Stage 1: (No Penalties)

<b>Residential</b>		
		Penalty
Block 1	1-18 Units	\$ -
Block 2	19-29 Units	\$ -
Block 3	30-49 Units	\$ -
Block 4	50-74 Units	\$ -
Block 5	75-99 Units	\$ -
Block 6	100+ Units	\$ -

<b>Commercial</b>		
		Penalty
Block 1	1-50 Units	\$ -
Block 2	51-75 Units	\$ -
Block 3	76-100 Units	\$ -
Block 4	100-150 Units	\$ -
Block 5	151-200 Units	\$ -
Block 6	200+ Units	\$ -

<b>Irrigation</b>		
		Penalty
Block 1	1-115 Units	\$ -
Block 2	116-200 Units	\$ -
Block 3	201-300 Units	\$ -
Block 4	301-400 Units	\$ -
Block 5	401-500 Units	\$ -
Block 6	500+ Units	\$ -

B. Stage 2:

<b>Residential</b>		
		Penalty
Block 1	1-18 Units	\$ -
Block 2	19-29 Units	\$ -
Block 3	30-49 Units	\$ 20.00
Block 4	50-74 Units	\$ 40.00
Block 5	75-99 Units	\$ 80.00
Block 6	100+ Units	\$ 160.00

<b>Commercial</b>		
		Penalty
Block 1	1-50 Units	\$ -
Block 2	51-75 Units	\$ -
Block 3	76-100 Units	\$ 50.00
Block 4	100-150 Units	\$ 100.00
Block 5	151-200 Units	\$ 200.00
Block 6	200+ Units	\$ 400.00

<b>Irrigation</b>		
		Penalty
Block 1	1-115 Units	\$ -
Block 2	116-200 Units	\$ -
Block 3	201-300 Units	\$ 130.00
Block 4	301-400 Units	\$ 260.00
Block 5	401-500 Units	\$ 520.00
Block 6	500+ Units	\$ 1,000.00

C. Stage 3:

<b>Residential</b>		
		Penalty
Block 1	1-18 Units	\$ -
Block 2	19-29 Units	\$ -
Block 3	30-49 Units	\$ -
Block 4	50-74 Units	\$ 40.00
Block 5	75-99 Units	\$ 80.00
Block 6	100+ Units	\$ 160.00

<b>Commercial</b>		
		Penalty
Block 1	1-50 Units	\$ -
Block 2	51-75 Units	\$ -
Block 3	76-100 Units	\$ -
Block 4	100-150 Units	\$ 100.00
Block 5	151-200 Units	\$ 200.00
Block 6	200+ Units	\$ 400.00

<b>Irrigation</b>		
		Penalty
Block 1	1-115 Units	\$ -
Block 2	116-200 Units	\$ -
Block 3	201-300 Units	\$ -
Block 4	301-400 Units	\$ 260.00
Block 5	401-500 Units	\$ 520.00
Block 6	500+ Units	\$ 1,000.00

D. Stage 4:

<b>Residential</b>		
		Penalty
Block 1	1-18 Units	\$ -
Block 2	19-29 Units	\$ 10.00
Block 3	30-49 Units	\$ 20.00
Block 4	50-74 Units	\$ 40.00
Block 5	75-99 Units	\$ 80.00
Block 6	100+ Units	\$ 160.00

<b>Commercial</b>		
		Penalty
Block 1	1-50 Units	\$ -
Block 2	51-75 Units	\$ 25.00
Block 3	76-100 Units	\$ 50.00
Block 4	100-150 Units	\$ 100.00
Block 5	151-200 Units	\$ 200.00
Block 6	200+ Units	\$ 400.00

Irrigation		
		Penalty
Block 1	1-115 Units	\$ -
Block 2	116-200 Units	\$ 65.00
Block 3	201-300 Units	\$ 130.00
Block 4	301-400 Units	\$ 260.00
Block 5	401-500 Units	\$ 520.00
Block 6	500+ Units	\$ 1,000.00

**Section 3. Payment of Penalties**

Any penalty imposed pursuant to Section 1 shall be collected on the customer's water bill. Failure to pay a penalty amount will be treated as nonpayment of the water bill and water service may be terminated as a result. In the event that the individual responsible for payment of the water bill is not the violator of this Ordinance, notification of penalties will go to 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 4. Appeal Procedures**

1. Filing an Appeal. Any customer who wishes to appeal a penalty imposed by the District pursuant to this Ordinance shall comply with the following procedures:
  - a. The appellant shall pay all amounts due and owing on his/her water bill, including any disputed penalty(ies) imposed by the District pursuant to this Ordinance.
  - b. The appellant shall submit an appeal request form (Exhibit A) to the General Manager or his/her designee no later than fourteen (14) days from the date of the appellant's water bill for the billing cycle in which any penalty(ies) are imposed.
  - c. The appellant shall submit proof, as deemed necessary by the District, in support of the appeal request. Such support may take the form of invoices, photos, etc.
  
2. Basis for Granting an Appeal. An appeal may be granted under the following limited circumstances:
  - a. The amount of water delivered to the appellant's property did not violate the rules and regulations as evidenced by either a demonstrable malfunction in the meter serving the customer's property or a billing error by the District.

- b. The amount of water used by the appellant's property exceeded the appropriate stage of drought administrative penalties as a result of a pipe leak (or leaks), but the customer fixed the leak(s) within the fourteen (14) days provided in Section 4(1)(b) above.
- c. The appellant demonstrates the water use is needed for human health and/or safety reasons.

3. Denial of Appeal Request. The decision by the General Manager or his/her designee to deny a request for appeal shall be final.

**Section 5. Use of Penalties**


Penalty funds collected pursuant to this Ordinance shall not be collected for the purpose of recovering the cost of providing water service to Yorba Linda Water District's water customers and shall be segregated into a fund which is not used to pay the cost of providing water service to Yorba Linda Water District's water customers.

**Section 6.** In order to align with the District's established meter reading and billing schedules, Ordinance No. 15-01 is hereby repealed effective 11:59 p.m. on Thursday, April 28, 2016. Furthermore, the rules and regulations contained herein shall be in full force and effect at 12:00 a.m. on Friday, April 29, 2016.


**Section 7.** The Board Secretary is hereby instructed to publish this Ordinance pursuant to subdivision (a) of Section 31027 of the California Water Code.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of April 2016, by the following called vote:

AYES: Directors Beverage, Collett, Hawkins, Kiley and Melton  
 NOES: None  
 ABSTAIN: None  
 ABSENT: None

  
 \_\_\_\_\_  
 Ric Collett, President  
 Yorba Linda Water District

**ATTEST:**

  
 \_\_\_\_\_  
 Marc Marcantonio, Board Secretary  
 Yorba Linda Water District

Reviewed as to form by General Counsel:  
 \_\_\_\_\_  
 Arthur G. Kidman, Esq.  
 Kidman Law LLP





YORBA LINDA WATER DISTRICT

Water Shortage Administrative Penalty Appeal Request Form

Pursuant to Ordinance No. 16-01

Name (Printed): \_\_\_\_\_ Account #: \_\_\_\_\_ Bill Date: \_\_\_\_\_

Service Address: \_\_\_\_\_  
Street City Zip

Reason for request for appeal from water shortage administrative penalty:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I understand that any information provided on this form or in supporting documentation that is found to be willfully falsified shall result in an automatic denial of the appeal.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please drop-off, mail or fax completed form to:

YLWD Conservation Division  
1717 E Miraloma Ave  
Placentia CA 92870

Fax: 714-701-3058

FOR OFFICE USE ONLY

Approved: \_\_\_\_\_

Denied: \_\_\_\_\_





## YORBA LINDA WATER DISTRICT

### Water Shortage Administrative Penalty Appeal Procedures

#### 1. Filing an Appeal

Any customer who wishes to appeal a penalty imposed by the District pursuant to Ordinance No. 16-01 shall comply with the following procedures:

- a. The appellant shall pay all amounts due and owing on his/her water bill, including any disputed penalty(ies) imposed by the District pursuant to Ordinance No. 16-01.
- b. The appellant shall submit an appeal request form (Exhibit A) to the General Manager or his/her designee no later than fourteen (14) days from the date of the appellant's water bill for the billing cycle in which any penalty(ies) are imposed.
- c. The appellant shall submit proof, as deemed necessary by the District, in support of the appeal request. Such support may take the form of invoices, photos, etc.

#### 2. Basis for Granting an Appeal

An appeal may be granted under the following limited circumstances:

- a. The amount of water delivered to the appellant's property did not violate the rules and regulations as evidenced by either a demonstrable malfunction in the meter serving the customer's property or a billing error by the District.
- b. The amount of water used by the appellant's property exceeded the appropriate stage of administrative penalties as a result of a pipe leak (or leaks), but the customer fixed the leak(s) within fourteen (14) days pursuant to Ordinance No. 16-01.
- c. The appellant demonstrates the water use is needed for human health and/or safety reasons.

#### 3. Denial of Appeal Request

The decision by the General Manager or his/her designee to deny a request for appeal shall be final.



YORBA LINDA WATER DISTRICT

Water Shortage Administrative Penalty Appeal Request

NOTICE OF DECISION

Pursuant to Ordinance No. 16-01

Name: \_\_\_\_\_ Account #: \_\_\_\_\_ Bill Date: \_\_\_\_\_

Service Address: \_\_\_\_\_  
Street City Zip

Request Decision:

- Approved  Conditionally Approved  Denied

Decision Reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reviewer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*The decision by the General Manager or his/her designee to deny a request for appeal shall be final.*