

RESOLUTION NO. 10-11-2

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EL TORO WATER DISTRICT
ADOPTING WATER CONSERVATION &
WATER SUPPLY SHORTAGE ORDINANCE NO. 2010-1
WHICH AMENDS EL TORO WATER DISTRICT'S
WATER CONSERVATION & WATER SUPPLY SHORTAGE
ORDINANCE NO. 2009-1
IN ITS ENTIRETY

WHEREAS, the general welfare of the people in the El Toro Water District ("District") requires that the water available to the District be utilized in a manner which maximizes beneficial use and that the waste and unreasonable use, or unreasonable method of use of water be prevented;

WHEREAS, pursuant to Section 34000 *et seq.* of the Water Code of the State of California, the District has the authority to adopt rules and regulations for the provision of water service and facilities;

WHEREAS, Section 376 *et seq.* of the Water Code of the State of California permits public entities which supply water at retail or wholesale to adopt and enforce a water conservation program to reduce the quantity of water used by the people therein for the purpose of conserving the water supplies of such public entity;

WHEREAS, Section 350 *et seq.* of the Water Code of the State of California permits the governing body of a distributor of a public water supply to declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent there would be insufficient water for human consumption, sanitation, and fire protection;

WHEREAS, on March 26, 2009, the District adopted Ordinance No. 2009-1 which addressed, among other things, Permanent Mandatory Water Conservation Measures as prescribed by MET, along with Declarations for Level 1, 2 and 3 Water Shortage enforcement measures;

WHEREAS, on May 28, 2009 the District declared a Level 1 Water Supply Shortage, in response to a MWDOC Stage II Water Supply Shortage Declaration. The declaration included initiation of a water allocation program and the requirement for notices, fines and monetary penalties for the violation of Permanent Conservation Measures and expanded Level 1 Conservation Measures;

WHEREAS, on February 25, 2010, the District adopted Resolution No. 10-2-1 which Resolution amended the District's Level 1 Water Supply Shortage Implementation Provisions which, among other things, added a provision that, subject to the results of a 2009/10 year-end reconciliation of Wholesale Water Supplier penalty assessments imposed upon the District and costs incurred for the District's 2009/10 allocation/conservation efforts, provided for the Board of Directors to utilize remaining penalty funds to accommodate a year-end prorate annualized penalty credit;

WHEREAS, effective July 1, 2010, the District implemented a Water Budget Based Tiered Conservation Rate Structure (Tiered Conservation Rates Structure) which replaced the single tier water allocation program administered during fiscal year 2009/10;

WHEREAS, it is in the best interest of the District and the welfare of the people in the District, to amend and replace in its entirety Ordinance No. 2009-1 in order to: (1) incorporate the District's recently implemented Water Budget Based Tiered Rate Structure (WBBTRS) inclusive of the Drought Factor which could be applied during local, regional and statewide water shortage situations; and (2) recognize that the WBBTRS serves as the primary water reduction monitoring and enforcement mechanism for Permanent Mandatory Conservation Measures and Water Supply Shortage Declarations;

WHEREAS, the District's Board of Directors desire to reaffirm and maintain its declaration of a Level 1 Water Supply Shortage;

WHEREAS, the District held a noticed public hearing on November 23, 2010 to review staff's recommendations and to consider public comments regarding the adoption of Ordinance No. 2010-1 in the form and content attached to this Resolution and marked Exhibit "A" entitled "El Toro Water District Water Conservation & Water Supply Ordinance No. 2010-1";

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the El Toro Water District hereby determines and finds that the above recitals, determinations and findings of necessity are true and correct statements and are fully incorporated herein;

RESOLVED FURTHER, that the maintenance of the general welfare of the District's customers necessitates the adoption of Ordinance No. 2010-1 in the form and content set forth in Exhibit "A" attached hereto, which exhibit, by this reference, is fully incorporated herein;

RESOLVED FURTHER, that Ordinance No. 2010-1, in the form and content set forth in Exhibit "A" attached hereto, is hereby adopted, effective January 1, 2011;

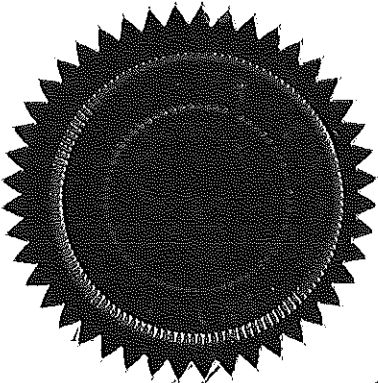
RESOLVED FURTHER, that a Level 1 Water Shortage is reaffirmed and re-declared pursuant to Ordinance No. 2010-1 as set forth and attached to this Resolution and marked Exhibit "A";

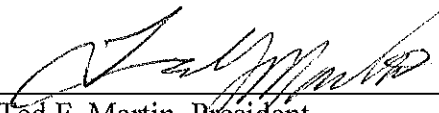
RESOLVED FURTHER, that the District's General Manager and staff are hereby directed to publish and post Ordinance No. 2010-1 within ten days of November 23, 2010, pursuant to Section 375 of the Water Code of the State of California.

ADOPTED, SIGNED AND APPROVED by the following vote this 23rd day of November, 2010.

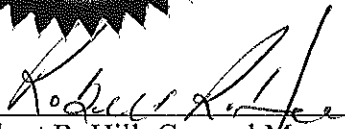
AYES: President Martin, Vice President Goldman, Director Dudley, Director Werner
NOES: None & Director Kahn
ABSTAIN: None
ABSENT: None

EL TORO WATER DISTRICT





Ted F. Martin, President
El Toro Water District and the
Board of Directors thereof

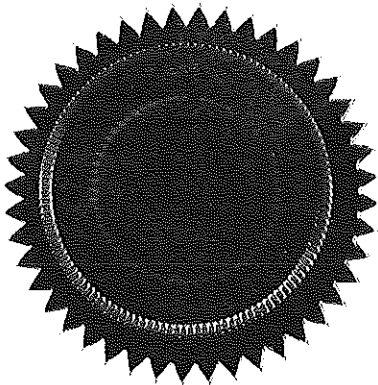


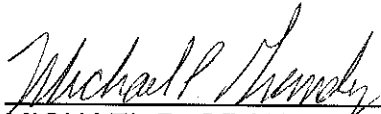
Robert R. Hill, General Manager/Assistant Secretary
El Toro Water District and the
Board of Directors thereof

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, MICHAEL P. GRANDY, Secretary of the Board of Directors of the El Toro Water District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 10-11-2 of said Board, and that the same has not been amended or repealed.

DATED: November 23, 2010





MICHAEL P. GRANDY, Secretary
El Toro Water District and of
the Board of Directors thereof

EL TORO WATER DISTRICT

WATER CONSERVATION & WATER SUPPLY SHORTAGE ORDINANCE 2010 – 1 (effective January 1, 2011)

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ORDINANCE NO. 2010 - 1

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF EL TORO WATER DISTRICT ESTABLISHING A
WATER CONSERVATION & WATER SUPPLY SHORTAGE PROGRAM
FOR USERS OF POTABLE WATER PROVIDED BY THE DISTRICT**

Section I. Title

**El Toro Water District Water Conservation & Water Supply Shortage Ordinance
("Ordinance")**

Section II. Findings

1. **A reliable minimum supply of potable water is essential** to the public health, safety and welfare of the people and economy of Southern California.
2. **Southern California is a semi-arid region, largely dependent on imported water** supplies from Northern California and the Colorado River. Population growth, drought, climate change, environmental concerns, government policy changes, restrictions on pumping and other factors in our region, in other parts of the State and in the western U.S. make Southern California highly-susceptible to water supply reliability issues.
3. **Careful water management requires active conservation measures** not only in times of drought but at all times. It is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
4. **California Constitution Article X, Section 2** declares for the general welfare:
 - a. Water resources be put to beneficial use
 - b. Prevention of water waste and unreasonable water use or methods of water use
 - c. Full exercise of water conservation with a view to reasonable and beneficial water use
5. **California Water Code Section 375** authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.

6. **California Water Code Sections 350, et. seq.**, sets forth the determination and notification procedures for water suppliers seeking to declare a water shortage or a water emergency.
7. **California Water Code Section 356** allows for the adoption of regulations and restrictions that include discontinuance of service as an enforcement option where a water shortage emergency condition has been declared.
8. **California Water Code Section 370, et. seq.**, authorizes water suppliers to adopt water allocation programs for water users and allocation-based conservation water conservation pricing.
9. **California Water Code Sections 13550 and 13551** declare a statewide policy that the use of potable domestic water for irrigation purposes when reclaimed (recycled) water is available constitutes a waste or unreasonable use of water within the meaning of the State Constitution.
10. **El Toro Water District** requires that future developments utilize reclaimed (recycled) water wherever economically and technically feasible within the boundaries of the District in order to conserve potable water for the purposes of human consumption and fire protection.
11. **The adoption and enforcement of a Water Conservation & Water Supply Shortage Ordinance is necessary to manage the District's potable water supply** short- and long-term and to minimize and/or avoid the effects of drought and water shortage within the District. Such a program is essential to ensure a reliable and sustainable minimum supply of water for public health, safety and welfare.

Section III. Declaration of Purpose and Intent

1. To minimize or avoid the effect and hardship of potential shortages of **potable water** to the greatest extent possible, this Ordinance establishes a Water Conservation & Water Supply Shortage Program designed to:
 - a. Reduce potable water consumption (demand) through conservation and, if necessary, through water supply shortage allocations to all customer categories. Water shortage allocations will be achieved through the use of a "drought factor" which is a component of the District's Water Budget Based Tiered Conservation Rate Structure.
 - b. Enable effective potable water supply planning
 - c. Assure reasonable and beneficial use of potable water
 - d. Prevent waste of potable water and maximize efficient use in the District
2. **The Ordinance establishes:**
 - a. **Permanent Mandatory Water Conservation Measures** are designed to alter behaviors related to potable water-use efficiency during non-shortage conditions

- b. **Three levels of potential response to escalating water supply shortages** which the El Toro Water District Board may choose to implement during times of declared water shortage or water emergency. The three levels of response consist of expanded water use restrictions and the possible imposition of water supply shortage allocations to all customer categories as a result of worsening drought conditions, emergencies, and/or decreasing supplies.

Section IV. Definitions

1. General

- a. **“The District”** means El Toro Water District.
- b. **“The Board”** means the El Toro Water District Board of Directors.
- c. **“Person”** means any person or persons, corporation, public or private entity, governmental agency or institution, or any other user of water provided by the District.
- d. **“Potable Water”** means water that is suitable for drinking.
- e. **“Recycled Water”** means the reclamation and reuse of non-potable water and/or wastewater for beneficial use, such as irrigation. Also known as “Reclaimed Water.”
- f. **“Water Waste”** refers to uses of water that are limited or prohibited under the Ordinance because they exceed necessary or intended use and could reasonably be prevented, such as runoff from outdoor watering.
- g. **“Billing Unit”** is equal to 100 cubic feet (1 CCF) of water, which is 748 gallons. Water use is measured in units of 100-cubic-feet and multiplied by applicable water usage rates for billing. Also known as a “Unit of Water.”
- h. **“Undue Hardship”** is a unique circumstance in which a requirement of the Ordinance would result in a disproportionate impact on a water user or property upon which water is used compared to the impact on water users generally or similar properties or classes of water use.
- i. **“Safety and Sanitary Hazard”** is one which presents an immediate and imminent threat to human health (injury).
- j. **“Water Budget Based Tiered Conservation Rate Structure”** (“Tiered Conservation Rate Structure”) is a rate structure which provides “water budgets” to each customer based on efficient indoor and outdoor need. Water used in excess of the combined indoor and outdoor budget is billed at a progressively higher rate providing a clear indicator regarding inefficient use of potable water. The increased costs for utilization of water in excess of budgeted amounts provides adequate financial incentive to stay within assigned budgets and to comply with Permanent Mandatory Water Conservation Measures.

- k. "Drought Factor" is a component of the water budget calculation that modifies (reduces) the indoor and/or outdoor budget to further encourage conservation in times of water supply shortage and provides a financial incentive for adhering to budgeted amounts.

2. Irrigation

- a. **"Irrigation Controller"** is the part of an automated irrigation system that instructs the valves to open and close to start or stop the flow of water.
 - 1. **"Sensor-based irrigation controller"** operates based on input from a combination of sensors (rain, solar, soil moisture) installed in or around the landscaped area.
 - 2. **"Weather-based irrigation controller"** operates automatically based on evapo-transpiration rates and historic or real-time weather data.
- b. **"Irrigation System"** refers to a manual or automated watering system consisting of pipes, hoses, spray heads and/or sprinkler devices or valves. Also known as a "Landscape Irrigation System."
- c. **"Positive Self-Closing Shut-Off Hose Nozzle"** refers to a water-efficient hose nozzle for residential or commercial hoses that users must press or release to start or stop the flow of water. Also known as an "Automatic Shut-Off Nozzle."
- d. **"Valves"** refer to the part of an irrigation system that opens and closes manually or electronically to start or stop the flow of water.

3. Other

- a. **"Pre-Rinse Kitchen Spray Valves"** refer to highly water-efficient sprayers that commercial kitchens use to rinse dishes in the sink before washing and for other preliminary cleaning purposes.
- b. **"Single-Pass Cooling System"** refers to an air conditioning, refrigeration or other cooling system that removes heat by transferring it to a supply of clean water and dumping the water down the drain – after a single use. This type of cooling system is extremely water-inefficient compared to systems that recirculate the water.

Section V. Application of Ordinance

1. **Ordinance provisions apply to any person or entity using potable water provided by the District.** This includes individuals, persons, corporations, public or private entities, governmental agencies or institutions, or any other users of District water.
2. **The provisions of this Ordinance does not apply to the following:**

- d. **Water use which is immediately necessary to protect public health and safety** or for essential government services, such as police, fire and similar services.
 - b. **Recycled water use for irrigation.** Use of recycled water requires a permit that has specific use restrictions, many of which focus on water efficiency. Given such permits and the interest in promoting the use of recycled water as a means to preserve potable, recycled water is exempt from all requirements of this Ordinance.
 - c. **Water used by nurseries and growers** to sustain plants, trees, shrubs, crops, compost or other landscape vegetation material intended for distribution or commercial sale.
3. **This Ordinance is intended solely to further the conservation of potable water.** It is not intended to implement any provision of federal, state or local statutes, ordinances or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on storm water ordinances or management plans.

Section VI: Permanent Mandatory Water Conservation Measures

The following Permanent Mandatory Water Conservation Measures for potable water are in effect at all times.

1. General Restrictions – Residential, Commercial and Public Customers

a. Limits on Outside Watering Hours

- 1. **Watering or irrigating is prohibited any day of the week between 10:00 a.m. and 5:00 p.m..**
- 2. The week includes weekdays and weekends, seven (7) days
- 3. This applies to lawns, landscaping and all other vegetated areas.
- 4. The following are **exempt** from this restriction:
 - a. Watering with a hand-held bucket or similar container
 - b. Watering with a hand-held hose equipped with a positive self-closing shut off hose nozzle
 - c. Adjusting or repairing an irrigation system for very short periods of time

b. Limits on Outside Watering Duration

- 1. **Watering or irrigating with a device or system that is not continuously attended is limited to no more than 15 minutes per day per valve.**

2. This applies to lawns, landscaping and all other vegetated areas.
3. The following irrigation systems are **exempt**:
 - a. Very low-flow drip-type systems where no emitter discharges more than two (2) gallons of water per hour
 - b. Systems equipped with sensor or weather-based controllers.
- c. **No Excessive Water Flow or Runoff:** It is prohibited to water lawns, landscaping and vegetated areas in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch.
- d. **No Outside Watering when it is Raining:** During rain events, outside watering must be manually terminated or automatically terminated using sensor-based or weather-based irrigation controllers.
- e. **Obligation to Fix Leaks, Breaks or Malfunctions in lines, fixtures or facilities**
 1. Excessive use, loss or escape of water through breaks, leaks or malfunctions in the water user's plumbing or distribution system:
 - a. Is prohibited for any period of time after such water waste should have reasonably been discovered and corrected
 - b. Must be corrected in **no more than five (5) days of District notification**
- f. **No Hosing or Washing Down Hard or Paved Surfaces**
 1. It is prohibited to hose or wash down hard or paved surfaces, such as sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys.
 2. When it is necessary hose or wash down hard or paved surfaces to alleviate safety or sanitary hazards, the following may be used:
 - a. Hand-held bucket or similar container
 - b. Hand-held hose equipped with a positive self-closing shut off hose nozzle
 - c. Low-volume high-pressure cleaning machine equipped to recycle used water
- g. **No Hosing or Washing Down Vehicles**
 1. It is prohibited to use water to hose or wash down a motorized or non-motorized vehicle, including but not limited to automobiles, trucks, vans, buses, motorcycles, boats or trailers.
 2. The following are **exempt** from this restriction:

- a. Use of a hand-held bucket or similar container
 - b. Use of a hand-held hose equipped with a positive self-closing shut off hose nozzle
 - c. Commercial car washing facility
- h. **Re-Circulating Decorative Water Fountains and Features** All decorative water fountains and water features must re-circulate water -- or users must secure a waiver from the District.

2. Commercial Food-Serving & Lodging Requirements

- a. **Water Served Only Upon Request.** Eating or drinking establishments, including but not limited to restaurants, hotels, cafes, bars or other public places where food or drinks are sold, or served or offered for sale, are prohibited from providing drinking water to any person unless requested.
- b. **Option Not To Have Towels/Linens Laundered.** Hotels, motels and other commercial lodging establishments must provide guests the option of not having their used towels and linens laundered. Lodging establishments must prominently display notice of this option in each room and/or bathroom, using clear and easily understood language.

3. Commercial Kitchen Requirements

- a. **Water-Efficient Pre-Rinse Kitchen Spray Valves.** Food preparation establishments, such as restaurants, cafes and hotels, are prohibited from using non-water efficient kitchen spray valves, as follows:
 - 1. **New** kitchen spray valves must use 1.6 gallons or less per minute.
 - 2. **Existing** kitchen spray valves must be retrofitted to models using 1.6 gallons of water or less per minute.

4. Commercial Water Recirculation Requirements

- a. **Car Wash and Laundry System Requirements:** All **new** commercial car-wash and laundry facilities and systems must re-circulate the wash water -- or secure a waiver of this requirement from the District.
 - b. **No Single-Pass Cooling Systems:** Buildings requesting **new** water service or being **remodeled** are prohibited from installing single-pass systems.
5. **Indiscriminate Water Use.** Upon notice by the District, persons shall cease to cause or permit the indiscriminate use of water not otherwise prohibited above which is wasteful and without reasonable purpose.
6. **Public Health and Safety.** These regulations shall not be construed to limit water use which is immediately necessary to protect public health and safety for essential government services, such as police, fire and similar services.

Section VII: Level 1 Water Supply Shortage (Water Alert) *Up to 20% shortage in imported water supplied to the District and/or up to 20% reduction needed in consumer demand*

1. Level 1 Water Supply Shortage

- a. A Level 1 Water Supply Shortage exists when the District Board of Directors, at its sole discretion, determines and declares that **a reduction in consumer demand is necessary** due to drought or water supply cutbacks in order to make more efficient use of water and appropriately respond to existing water conditions.
- b. The type of event that may prompt the Board to declare a Level 1 Water Supply Shortage could include, among other factors, a finding that its **wholesale water supplier has allocated to the District at least 80% of the District's base water supply**. "Base water supply" refers to the District's average annual water purchases from the wholesaler over a given period, as defined by the wholesaler. At this water allocation level, the District could experience a **shortage in imported supplies of up to 20%**.

2. Permanent Mandatory Water Conservation Measures identified in Section VI **remain in effect**.

3. Level 1 Mandatory Water Conservation Measures take effect upon the Board declaring a Level 1 Water Supply Shortage and apply for the duration of the shortage:

a. Limits on Outside Watering Days

1. No more than **three (3) days per week from April – October** and no more than **one (1) day per week from November – March**. This applies to lawns, landscaping and all other vegetated watering schedules. **Assigned watering days have been established to coincide with Municipal City Boundaries. Refer to Appendix B for assigned watering days.**

2. The following are **exempt** from these restrictions:

- a. Watering with a hand-held bucket or similar container
- b. Watering with a hand-held hose equipped with a positive self-closing shut off hose nozzle
- c. Irrigation systems that exclusively use very-low-flow drip type systems where emitters discharge no more than two (2) gallons of water per hour.
- d. Irrigation systems equipped with sensor or weather based controllers.

4. Drought Factors: The District may find it necessary to encourage further reductions in water use to meet restrictions placed on its import supply. The use of the Drought Factor will be based upon an independent evaluation developed by outside consultants to fairly and equitably limit use of water to all customers.

- a. The District will establish a Drought Factor for use in determining the indoor and/or outdoor water budgets for property served by the District that will comply with all applicable provisions of Proposition 218.
 - b. Following the effective date of the Drought Factor as established by the District, all customers will be billed based upon the adjusted indoor and outdoor water budgets.
5. **Other Prohibited Uses:** The District may implement other prohibited water uses as deemed necessary, after notice to customers.

Section VIII: Level 2 Water Supply Shortage (Water Supply Warning) *Up to 40% shortage in imported water supplied to the District and/or up to 40% reduction needed in consumer demand*

1. Level 2 Water Supply Shortage

- a. A Level 2 Water Supply Shortage exists when the District Board of Directors, at its sole discretion, determines and declares that **an additional reduction in consumer demand is necessary** due to drought or water supply cutbacks in order to make more efficient use of water and appropriately respond to water conditions.
 - b. The type of event that **may** prompt the Board to declare a Level 2 Water Supply Shortage could include, among other factors, a finding that its **wholesale water provider allocated to the District at least 60%** of the District's base water supply. "Base water supply" refers to the District's average annual water purchases from the wholesaler over a given period, as defined by the wholesaler. At this water allocation level, the District could experience a **shortage in imported supplies of up to 40%**.
2. The following **Mandatory Water Conservation Measures remain in effect** during a Level 2 Water Supply Shortage:
- a. **Permanent Water Conservation Measures** identified in Section VI
 - b. **Level 1 Water Conservation Measures** identified in Section VII
3. The following **Water Conservation Measures take effect** upon declaration of a Level 2 Water Supply Shortage and apply for the duration of the Shortage:
- a. **Additional Limits on Outside Watering Days**
 1. Watering lawns, landscaping and other vegetated areas is limited to **no more than two (2) days per week from April – October**. This is one (1) day less than required during a Level 1 Water Shortage. The number of watering days permitted from November – March remains the same at no more than one (1) day per week.
 2. The District will establish and post the new watering schedule. **Assigned watering days have been established to coincide with Municipal City Boundaries. Refer to Appendix B for assigned watering days.**
 3. The following are **exempt** from these restrictions:

- a. Watering with a hand-held bucket or similar container
 - b. Watering with a hand-held hose equipped with a positive self-closing shut off hose nozzle
 - c. Irrigation systems that exclusively use very-low-flow drip type systems where emitters discharge no more than two (2) gallons of water per hour.
 - d. Irrigation systems equipped with sensor or weather based controllers.
- b. **Shorter Timeframe to Fix Leaks, Breaks or Malfunctions** in water users' pipelines, fixtures or facilities.
1. Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system must be **fixed in no more than three (3) days following notification from the District** – unless other arrangements are made with the District.
 2. This shorter timeframe is two (2) days less than required under Permanent Water Conservation Measures, Section VI.
- c. **No Filling or Refilling Ornamental Lakes and Ponds**
1. Filling or refilling ornamental lakes and ponds is prohibited.
 2. **Exempt** are ornamental lakes and ponds that sustain aquatic life -- provided such life is of significant value and was actively managed in the water feature prior to declaring the shortage.
- d. **No Filling or Refilling Residential Pools or Spas**
1. Filling residential swimming pools or outdoor spas is prohibited; refilling more than one (1) foot of water is prohibited.
 2. **Exempt** are individuals who, due to health reasons or medical conditions, find it necessary to fill or refill their pools or spas.
- e. **No Hosing or Washing Down Vehicles:** It is prohibited to use water to hose or wash down a motorized or non-motorized vehicle, including but not limited to automobiles, trucks, vans, buses, motorcycles, boats or trailers. The **only exemption** from this restriction is washing vehicles at a commercial car washing facility that recycles its wash water.
- f. **Other Prohibited Uses:** The District may implement other prohibited water uses as deemed necessary, following notification of customers.
4. **Drought Factors:** The District may find it necessary to encourage further reductions in water use to meet restrictions placed on its import supply. The use of the Drought Factor will be based upon an independent evaluation developed by outside consultants to fairly and equitably limit use of water to all customers.

- g. The District will establish a Drought Factor for use in determining the indoor and/or outdoor water budgets for property served by the District that will comply with all applicable provisions of Proposition 218.
- h. Following the effective date of the Drought Factor as established by the District, all customers will be billed based upon the adjusted indoor and outdoor water budgets.
- i.

5. **Other Prohibited Uses:** The District may implement other prohibited water uses as deemed necessary, after notice to customers.

Section IX. Level 3 Water Supply Shortage (Water Emergency) *More than 40% shortage in imported water supplied to the District and/or more than 40% reduction needed in consumer demand*

1. Level 3 Water Supply Shortage Emergency

- a. A Level 3 Water Supply Shortage exists when the District Board of Directors, at its sole discretion, determines and declares that **a further additional reduction in consumer demand is necessary** due to drought or water supply cutbacks in order to make more efficient use of water and appropriately respond to existing water conditions.
- b. The type of event that **may** prompt the Board to declare a Level 3 Water Supply Shortage Emergency could include, among other factors, a finding that its **wholesale water provider allocated to the District less than 60% of the District's base water supply**. "Base water supply" refers to the District's average annual wholesale water purchases over a given period as defined by the wholesaler. At this reduced water allocation level, the District could experience a **shortage in imported supplies of more than 40%**.

2. The following **Mandatory Water Conservation Measures remain in effect**:

- a. **Permanent Water Conservation Measures** identified in Section VI
- b. **Level 1 Water Conservation Measures** identified in Section VII
- c. **Level 2 Water Conservation Measures** identified in Section VIII

3. The following **Mandatory Water Conservation Measures take effect** upon declaring a Level 3 Water Emergency and apply for the duration of the Emergency:

a. All Outside Watering Prohibited

- 1. **Watering is prohibited on any day at any time** for lawns, landscaping and all vegetated areas.
- 2. **Exempt** from this restriction are the following -- unless the District determines that recycled water is available and lawful for use:

- a. Public works projects and actively-irrigated environmental mitigation projects will be allowed to operate under the Outside Watering Restrictions identified in Level II – Section VIII.
- b. Maintenance of vegetation, trees and shrubs using (subject to hour restrictions in Section VI.1.a.1):
 - 1. A hand-held bucket or similar container
 - 2. A hand-held hose equipped with a positive self-closing shut off hose nozzle
 - 3. Irrigation systems that exclusively use very-low-flow drip type systems where emitters discharge no more than two (2) gallons of water per hour
- c. Maintenance of (subject to hour restrictions, Section VI.1.a.1):
 - 1. Existing landscaping necessary for fire protection and/or soil erosion control. To the extent necessary, the District will utilize appropriate outside agencies to confirm exemption eligibility.
 - 2. Plant materials identified as rare or essential to the well being of endangered/rare species

b. **Shorter Timeframe to Fix Leaks, Breaks or Malfunctions** in pipelines, fixtures or facilities.

- 1. Excessive use, loss or escape of water through breaks, leaks or malfunctions in the water user's plumbing or distribution system must be fixed in **no more than two (2) days** following District notification – unless other arrangements are made with the District. The timeframe is one (1) day less than for Level 2.

c. **No New Potable Water Service**

1. During a Level 3 Water Emergency, the **District will not provide:**

- a. New potable water service
- b. New water meters (temporary or permanent)
- c. Will-serve letters

2. The District will **only issue** will-serve letters in the following cases:

- a. Projects necessary to protect public health, safety & welfare
- b. Projects that have a valid, unexpired city building permit
- c. Projects in which applicants can provide -- to the satisfaction of the District -- substantial evidence of an enforceable commitment that water demands will be offset prior to the provision of a new water meter(s)

3. This prohibition **does not preclude** resetting or turning-on meters to restore or continue water service interrupted for one year or less.

4. **Discontinue Service:** Per Water Code Section 356, the District, in its sole discretion, may discontinue service to customers who willfully violate Section IX provisions.

5. **Drought Factors:** The District may find it necessary to encourage further reductions in water use to meet restrictions placed on its import supply. The use of the Drought Factor will be based upon an independent evaluation developed by outside consultants to fairly and equitably limit use of water to all customers.
 - a. The District will establish a Drought Factor for use in determining the indoor and/or outdoor water budgets for property served by the District that will comply with all applicable provisions of Proposition 218.
 - b. Following the effective date of the Drought Factor as established by the District, all customers will be billed based upon the adjusted indoor and outdoor water budgets.
6. **Other Prohibited Uses:** The District may implement other prohibited water uses as deemed necessary, following notification of customers

Section X. Other Provisions

1. Customer Water Conservation Plans:

- a. **Customers with high annual water usage.** During Level 1, Level 2 or Level 3 Water Shortages or Emergencies, the District Board of Directors, at its sole discretion and by written request, may require residential, commercial and/or public customers using **ten thousand (10,000) or more billing units per year** to submit a Water Conservation Plan to the District and to submit quarterly progress reports on such plan. The conservation plan must make recommendations for increased water savings, including increased use of recycled water based on feasibility. Quarterly progress reports must include status on implementation of recommendations.

2. Recycled Water To Replace Potable Water

- a. **Future Developments.** When available, El Toro Water District requires the use of recycled water in future developments.
- b. **New Water Service:** Prior to the connection of any new water service, the District will determine whether recycled water is appropriate and available to meet the requirements of the new service request. Recycled water must be utilized to the extent feasible, as determined by the District.
- c. **Transition from Potable Water:** The District may prohibit the use of potable water in certain instances – if the District determines that a specified use for potable water could be achieved with recycled water as a cost-effective alternative and the customer is given a reasonable time to make the conversion, as determined by the District's General Manager.

3. Recycled Water Construction Site Requirements

- a. **Recycled or non-potable water** must be used, when available.

- b. **No potable water may be used for soil compaction or dust control** where there is a reasonably-available source of recycled or non-potable water approved by the Department of Public Health and appropriate for such use.
 - c. **Water hoses shall be equipped with automatic shut-off nozzles**, given such devices are available for the size and type of hoses in use.
4. **Automated Irrigation Control System Requirements for Commercial, Multi-Family and Community Development/Redevelopment Projects**
- New Commercial, Multi-Family and Community development and/or redevelopment projects that include landscaped open space, park and recreation areas** will be required to install a sensor-based or weather-based irrigation controller, effective July 1, 2010.
5. **A Customer Water Waste Hotline** will be established and incorporated into the District's Customer Outreach Plan.

Section XI. Declaration & Notification of Water Shortages/Emergencies

1. **Declaration of a Level 1, 2 or 3 Water Shortage Emergency:** The District Board of Directors may declare a Level 1, 2 or 3 Water Shortage Emergency in accordance with the procedures specified in Water Code Sections 351 and 352 (Public Hearing, Notice and Publication). Thereafter, penalties and violations under Section XIII apply.
2. **Notification of Declared Water Shortages and Emergencies**
- a. The District must publish a copy of the water shortage/emergency resolution in a newspaper used for the publication of official notices within the jurisdiction of the District within **ten (10) days** of the date that the shortage level is declared.
 - b. Additional mandatory conservation requirements will take effect no sooner than the **fifteenth (15) day** after the date that the shortage level is declared
3. **Notification of Declared Water Allocation or Water Budget Program**
- a. If the District Board of Directors, at its sole discretion, establishes a Drought Factor during a **Level 1, 2 or 3 Water Shortage/Emergency:**
 - 1. The District will comply with all applicable provisions of Proposition 218.
 - 2. The program will take effect on the date indicated on any such Proposition 218 notice..

Section XII. Hardship Waiver

1. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of the 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 waiver to the requirements as provided in this section.

2. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship.
- a. **Application for a Waiver:** Application for a waiver must be on a form prescribed by the District.
 - b. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
 - c. **Required Findings for Waiver:** Based on the information and supporting documents provided in the application, additional information provided as requested, and water use information for the property as shown by the records of the District, the District **General Manager** in making the waiver determination will take into consideration the following:
 - 1. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
 - 2. That because of special circumstances applicable to the property or its use, the strict application of this Ordinance would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;
 - 3. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the District to effectuate the purpose of this Ordinance and will not be detrimental to the public interest; and
 - 4. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.
 - d. **Approval Authority**
 - 1. The District General Manager or his designee(s) must act upon any completed **Application for a Waiver** no later than ten (10) days after receipt by the District.
 - 2. The General **Manager or his designee(s) may approve, conditionally approve, or deny the waiver** and the decision will be final.
 - 3. The applicant requesting the waiver must be promptly notified in writing of any action taken. Unless specified otherwise, at the time a waiver is approved, it will apply to the subject property for the duration of the water supply shortage or emergency.

Section XIII: Non-Compliance Charges and Penalties

1. **Non-Compliance with Permanent, Level 1 & Level 2 Mandatory Conservation Measures**

a. The District's Tiered Conservation Rate Structure is designed to provide an adequate indoor and outdoor water budget to all customers while staying within the water allocations imposed on the District by its wholesale supplier. It also imposes a significant financial burden through the upper tiers sufficient to cover the cost of any penalties and provide a financial incentive for the customer to work within the allowed budgets. The following additional measures, which are intended to further encourage customers' compliance with the mandatory water use restrictions will apply to persons or entities that fail to comply with any provision of the Ordinance for Permanent, Level 1 and Level 2 mandatory water conservation measures.

1. **Non-Compliance:** The District will issue a **written warning** and provide information regarding the necessity to comply with all Water Conservation Measure.

2. **Non-Compliance with Level 3 Mandatory Conservation Measures**

a. **Non-Compliance Charges:** The following will apply to persons or entities failing to comply with any provision of the Ordinance for Level 3 Mandatory Water Conservation Measures:

1. **First Instance of Non-Compliance:** The District will issue a **written warning** and send it along with an explanation of the violation.
2. **Second Instance of Non-Compliance:** A second instance of non-compliance with the Ordinance within the preceding twelve (12) calendar months is punishable by a non-compliance charge on the water bill not to exceed **two hundred and fifty dollars (\$250)**.
3. **Third Instance of Non-Compliance:** A third instance of non-compliance with the Ordinance within the preceding twelve (12) calendar months is punishable by a non-compliance charge on the water bill not to exceed **five hundred dollars (\$500)**.

b. **Water Flow Restrictor and/or Termination of Service**

1. **Water Flow Restrictor Device.** In addition to any non-compliance charges, the District may install a water flow restrictor device. If the District determines to install a water flow restrictor, installation of the flow restrictor would follow written notice of intent to the customer and would be in place for a minimum of forty eight (48) hours.
2. **Termination of Service:** In addition to any non-compliance charges and the installation of a water flow restrictor, the District may disconnect and/or terminate a customer's water service, pursuant to Water Code Section 356.

3. **Costs for Water Flow Restrictors and Service Disconnection**

- a. A person or entity in non-compliance with this Ordinance is responsible for payment of the District's charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the District's schedule of charges then in effect.
 - b. The charge for installing and/or removing any flow restricting device must be paid to the District before the device is removed.
 - c. Nonpayment will be subject to the same remedies as nonpayment of basic water rate
 - c. **Misdemeanor:** Pursuant to Water Code Section 377, any instance of non-compliance with the Ordinance may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days or by a fine not exceeding one thousand dollars (\$1,000) or by both.
3. **Separate Offenses:** Each day that a person or entity is non-compliant with the Ordinance is a separate offense.

4. **Notice of Non-Compliance/ Appeal and Hearing Process**

- a. The District will issue a **Notice of Non-Compliance** by mail or personal delivery at least ten (10) days before taking enforcement action. The notice will describe the violation and, if applicable, the date by which corrective action must be taken.
 - b. **A customer may appeal the Notice of Non-Compliance** by filing a written Notice of Appeal with the District no later than the close of business on the 10th day following receipt of the enforcement action. A customer appeal shall state the grounds for the appeal.
 - 1. **Any Notice of Non-Compliance not timely appealed will be final.**
 - 2. Upon receipt of a timely appeal, **the District will schedule a hearing on the appeal** and mail written notice of the hearing date to the customer at least ten (10) days before the hearing.
 - 3. The District General Manager or his designee(s) will hear the appeal and issue a written **Notification of Decision** within ten (10) days of the hearing.
 - c. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the District **may take appropriate steps to prevent the unauthorized use of water** given the nature and extent of the violations and the current declared water shortage level condition, including restricting the level of water use until the appeal is heard.
5. **Utilization of Collected Charges for Non-compliance with applicable Water Conservation Measures**

The Board of Directors hereby declares its intent to use these funds to pay any penalties/charges that may be imposed by the wholesale water provider of the District for exceeding its baseline water supply allocation and in furtherance of conservation efforts and/or acquisition of supplemental water supplies.

Section XIV: Severability: If any section, subsection, sentence, clause or phrase in this Ordinance is for any reason held invalid, the validity of the remainder of the Ordinance will not be affected. The District Board of Directors hereby declares it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases thereof is declared invalid.

Appendix A

ETWD Water Conservation & Water Shortage Ordinance Provisions Summary Table of Mandatory Water Conservation Measures

<i>Year-round</i>	<i>Water Supply Alert</i>	<i>Water Supply Warning</i>	<i>Water Emergency</i>
Permanent	Level 1 Water Supply Shortage - Up to 20% shortage in imported supplies to District	Level 2 Water Supply Shortage - Up to 40% shortage in imported supplies to District	Level 3 Water Supply Shortage - More than 40% shortage in imported supplies to District
Ordinance Section VI	Ordinance Section VII Same as Permanent Measures PLUS	Ordinance Section VIII Same as Permanent & Level 1 Measures PLUS	Ordinance Section IX Same as Permanent, Level 1 & Level 2 Measures PLUS

<i>General Restrictions</i>			
a. Prohibited any day of the week between 10 am – 5 pm PST (except using bucket or positive self closing shut-off hose nozzle or for quick system repairs)	a. Watering limited to: - 3 days a week from Apr-Oct - 1 day a week from Nov-Mar	a. Watering limited to; - 2 days a week from April–Oct - Nov-Mar remains 1 day a week	a. All watering prohibited (some exceptions)
b. No more than 15 minutes of watering per day, per valve on unattended automatic irrigation systems (some exemptions)		b. Fix leaks/breaks within reasonable time or no more than 3 days of District notice	b. Fix leaks/breaks within reasonable time or no more than 2 days of District notice
c. No excessive water flow or runoff		c. No filling or refilling ornamental lakes and ponds (some exceptions) d. No filling residential swimming pools or outdoor spas or refilling more than 1 foot (some exceptions)	c. No new potable water, new water meters (temporary or permanent) or issuance of will-serve letters (some exceptions for will-serve letters)
d. No outside watering when it is raining.		e. Wash cars only at commercial car wash with re-circulating system	d. Option to discontinue service for customers who willfully violate provisions during water emergency

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ETWD Water Conservation & Water Shortage Ordinance Provisions Summary Table of Mandatory Water Conservation Measures

<i>Year-round</i>	<i>Water Supply Alert</i>	<i>Water Supply Warning</i>	<i>Water Emergency</i>
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Ordinance Section VI	Ordinance Section VII Same as Permanent Measures PLUS	Ordinance Section VIII Same as Permanent & Level 1 Measures PLUS	Ordinance Section IX Same as Permanent, Level 1 & Level 2 Measures PLUS

e. Fix leaks/breaks within reasonable time or no more than 5 days of District notice			
f. No hosing or washing down hard or paved surfaces (except by hand to eliminate safety or sanitary hazards)	Optional Program at Levels 1, 2 or 3: Require Commercial, Industrial and Institutional users in District (10,000 billing units or more per year) to submit water conservation plan and reports to the District.		
g. No hosing or washing down vehicles, except using a bucket or positive self closing shut-off hose nozzle or commercial car wash			
h. Decorative water fountains or features must re-circulate water			
<i>Commercial Food Serving/Lodging</i>			
a. Restaurants only serve water on request			
b. Hotels must provide guests option to not launder linens/towels			

Appendix A

ETWD Water Conservation & Water Shortage Ordinance Provisions Summary Table of Mandatory Water Conservation Measures

<i>Year-round</i>	<i>Water Supply Alert</i>	<i>Water Supply Warning</i>	<i>Water Emergency</i>
Permanent	Level 1 Water Supply Shortage - Up to 20% shortage in imported supplies to District	Level 2 Water Supply Shortage - Up to 40% shortage in imported supplies to District	Level 3 Water Supply Shortage - More than 40% shortage in imported supplies to District
Ordinance Section VI	Ordinance Section VII Same as Permanent Measures PLUS	Ordinance Section VIII Same as Permanent & Level 1 Measures PLUS	Ordinance Section IX Same as Permanent, Level 1 & Level 2 Measures PLUS

<i>Commercial Kitchens</i>			
a. Water-efficient pre-rinse kitchen sprayers required for: - New installations & Retrofits			
<i>Commercial Water Re-circulation</i>			
a. No installation of non-re-circulating car wash or laundry facilities or systems			
b. No single-pass cooling sys. for new or remodeled buildings			

Appendix B

ETWD Water Conservation & Water Shortage Ordinance Provisions Level 1, 2 & 3 Water Supply Shortage - Assigned Outside Watering Days by City Boundary

	<i>Water Supply Alert</i>	<i>Water Supply Warning</i>	<i>Water Emergency</i>
	Level 1 Water Supply Shortage - Up to 20% shortage in imported supplies to District	Level 2 Water Supply Shortage - Up to 40% shortage in imported supplies to District	Level 3 Water Supply Shortage - More than 40% shortage in imported supplies to District
City/Municipality	Watering Limited to: 3 days a week from April to Oct. Nov. – Mar. 1 day a week (Note Section VII.3.a.2 for Exemptions)	Watering limited to: 2 days a week from April to Oct. Nov. – Mar. remains 1 day a week (Note Section VIII.3.a.3 for Exemptions)	Watering prohibited (Note Section IX.3.a.2 for Exemptions)

City of Mission Viejo	Monday & Thursday & Saturday or Sunday	Monday or Thursday & Saturday or Sunday	Prohibited – Note Exemption
City of Aliso Viejo	Monday & Thursday & Saturday or Sunday	Monday or Thursday & Saturday or Sunday	Prohibited – Note Exemption
City of Laguna Woods	Tuesday & Friday & Saturday or Sunday	Tuesday or Friday & Saturday or Sunday	Prohibited – Note Exemption
City of Laguna Hills	Tuesday & Friday & Saturday or Sunday	Tuesday or Friday & Saturday or Sunday	Prohibited – Note Exemption
City of Lake Forest	Tuesday & Friday & Saturday or Sunday	Tuesday or Friday & Saturday or Sunday	Prohibited – Note Exemption