

**RESOLUTION NO. 08-46**

**RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING WATER CONSERVATION PROGRAM UNDER MOULTON NIGUEL WATER DISTRICT RULES AND REGULATIONS FOR WATER SERVICE**

**WHEREAS**, pursuant to California Water District Law, Section 34000 *et seq.* of the California Water Code, the Moulton Niguel Water District (“District”) has the authority to adopt rules and regulations for the provision of water service and facilities;

**WHEREAS**, although the Board of Directors of the District (“Board”) previously adopted voluntary water conservation measures during drought conditions to reduce potable water consumption that resulted in some reduction in water usage by District’s customers, active water conservation measures at all times are essential to ensure a reliable minimum water supply to meet current and water supply needs and prohibit water waste in the District;

**WHEREAS**, the Board makes the following findings of necessity:

1. The District depends on imported water from Northern California and the Colorado River to meet approximately 80% of its supply demand, with the balance of the demand being met by local water recycling.

2. The main source of supply described under paragraph 1 has been severely impacted by dry conditions, lower-than-normal snow pack, environmental constraints in the Sacramento San Joaquin Bay-Delta (Bay-Delta) region and prolonged drought along the Colorado River.

3. Recent court rulings have further restricted water deliveries from the Bay-Delta and will require even greater withdrawals from water storage reserves to offset water lost as a result of the court rulings.

4. The District has invested and continues to invest in research and technology to develop new sources of water such as water recycling and desalination to meet demands.

5. Article X, Section 2 of the California Constitution, and implementing Water Code Section 100, declare that the general welfare requires that water resources of the State be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.

6. California Water Code Section 375 *et seq.* authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.

7. The District previously adopted its Urban Water Management Plan that includes water conservation as a necessary and effective component of its programs to provide a reliable supply of water to within its service territory. The Urban Water Management Plan also includes a Water Shortage Contingency Plan of actions to be taken in response to water supply shortages. The draft “*Water Conservation Program, Section N of the Districts Rules and Regulations for Water Service*” (“Water Conservation Program”) presented to the Board at this meeting is consistent with the Urban Water Management Plan, and necessary to manage the District’s potable water supply in the short and long-term and to avoid or minimize the effects of drought and water supply shortages within the District.

**WHEREAS**, the purpose of the prohibitions against water waste, the water conservation measures and the progressive restrictions on water use and method of use identified by the Water Conservation Program is to provide certainty to water users in the District and enable the District to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of its customers and the public;

**WHEREAS**, the Board previously reviewed a draft of the Water Conservation Program at a workshop held on November 14, 2008, and thereafter by adoption of Resolution No. 08-42 entitled “Resolution of the Board of Directors of Moulton Niguel Water District Calling a Public Hearing on Proposed Water Conservation Program under Moulton Niguel Water District Rules and Regulations for Water Service,” on November 20, 2008, called a hearing to consider public comments from customers and other interested persons on the Water Conservation Program in accordance with Water Code 375;

**WHEREAS**, the Water Conservation Program was made available for public inspection at the District offices and posted in various locations accessible to the public within the District, and notice of a public hearing thereon was given by publication on December 4, 2008, in the *Orange County Register*, and by posting at the District main office;

**WHEREAS**, the duly noticed public hearing was held on the date, and at the time, set forth in the notice of hearing, and all customers and other persons interested were given an opportunity to be heard concerning any matter set forth in the Water Conservation Program; and

**WHEREAS**, pursuant to Water Code Sections 375, after holding a noticed public hearing and making appropriate findings of necessity for the adoption of a water conservation program, the District may adopt and enforce water conservation program rules and regulations, including emergency water shortage response terms.

**NOW, THEREFORE**, the Board of Directors of the Moulton Niguel Water District does hereby **RESOLVE, DETERMINE** and **ORDER** as follows:

**Section 1.** The Board finds the foregoing Recitals, facts and findings of necessity, which are incorporated herein by this reference, support the adoption of the Water Conservation Program in the form of Attachment 1 to this Resolution in order to establish water conservation and supply shortage measures that will reduce water consumption within the District, enable

effective water supply planning, assure reasonable and beneficial use, and prevent waste of water for the purpose of conserving the water supplies of the District. The Water Conservation Program is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff, which are within the local jurisdiction of the Regional Water Quality Control Board, and set forth in stormwater ordinances and stormwater management plans.

**Section 2.** The Board approves and adopts the Water Conservation Program, such regulations to be incorporated as *Section N* of the *District's Rules and Regulations for Water Service*.

**Section 3.** The Board intends to review the Water Conservation Program periodically, and specifically within approximately four months from the date of this Resolution, for consideration of any revisions or changes to the terms of the program that may be advisable, based on the District's experience in the implementation of the conservation measures under the program; provided, the Board recognizes that, generally, the prohibitions against waste set forth in Section I are required best management practices and responsive to current agreements to which the District is a party.

**Section 4.** The Secretary is hereby ordered and directed to publish this Resolution in full, including Attachment 1, within ten days hereof, in a newspaper of general circulation within the District pursuant to California Water Code Section 376, and to post a certified copy of this Resolution at the District main office.

**Section 5.** The provisions of this Resolution shall be effective immediately upon adoption.

**ADOPTED, SIGNED and APPROVED** this 18th day of December, 2008.

**MOULTON NIGUEL WATER DISTRICT**

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s/Larry Lizotte  
President, Board of Directors

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s/Leslie Gray  
Secretary, Board of Directors

ATTACHMENT 1  
SECTION "N"  
OF THE RULES AND REGULATIONS

**Water Conservation Program**

Moulton Niguel Water District ("District") has adopted this Water Conservation Program ("Program") for the reasonable and beneficial use of the water resources of the State of California to the fullest extent possible, and for the avoidance of waste or unreasonable use of the natural resources of the State and the District. The following conditions are precedent to any obligation of the District to provide water or sewer service.

No water shall be provided by the District for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental, or public building or structure of any kind which is constructed or altered and in which either internal or external irrigation or domestic water piping or water fixtures are to be installed, extended, or altered in any way, including, but not limited to, any plumbing, water piping, or water fixtures for which a construction permit must be obtained, or for which District approval of plans and service applications are required, unless the new, extended, or altered water using facilities conform to the requirements and standards of the Rules and Regulations.

The required water conservation devices and standards of the District are those set forth on Exhibit "F" to these Rules and Regulations. Nothing provided in this Program shall be deemed to relieve any person from compliance with the local or State plumbing code or any other State or local plumbing or building requirements.

The following terms shall have the meanings defined below.

1. "Person" is any individual, firm, partnership, association, company, or organization of any kind, or any other user of water supplied by the District.
2. "Potable Water" means water suitable for drinking or any water other than Recycled Water.
3. "Recycled Water" means the reclamation and reuse of non-potable water for beneficial use.
4. "Water waste" is the use of any water in indoor or outdoor areas resulting in runoff, breaks, or leaks in the water delivery system, which has no beneficial use.

### **Effective Date, Application**

This Program is effective immediately upon adoption by the District Board of Directors (“Board”) or as otherwise established by State law for the District.

The provisions of this Program apply to any person in the use of any water provided by District.

The prohibited uses of water under this Program do not apply to the use of water necessary for public health and safety or for essential governmental services such as police, fire, and other similar emergency services.

The provisions of this Program do not apply to the use of Recycled Water. However, use of Recycled Water is covered by the District’s Rules and Regulations.

### **SECTION I. MANDATORY WATER CONSERVATION RULES – PROHIBITION AGAINST WASTE**

In order to comply with requirements of State legislation for “Best Management Practices” pertaining to urban water conservation guidelines, the following mandatory water conservation rules have been established to reduce water consumption and preserve the District’s water supply. The requirements below shall apply to all customers at all times, regardless of whether any declared water shortage condition is in effect under Section II.

1. **Limits on Watering Hours:** Watering or irrigation of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 10:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
2. **Limit on Water Duration:** Watering or irrigation of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or watering device that is not continuously attended is limited to no more than 15 minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow irrigation systems where no emitter produces more than two gallons of water per hour.
3. **No Excessive Water Flow or Runoff:** Watering or irrigation of any lawn, landscape or other vegetated area in a manner that causes or allows potable excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
4. **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 alleys, 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 hand-held

hose equipped with a positive water shut-off device or a low-volume, high-pressure cleaning machine equipped to recycle any water used.

5. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of potable water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than five days of receiving notice from the District, is prohibited.
6. **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.
7. **Limits on Washing Vehicles:** Using potable 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 or a hand-held hose equipped with a positive water shut-off nozzle or a low volume power washer with a positive water shut-off nozzle. This subsection does not apply to commercial car washes.
8. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, café, cafeteria, bar, club 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.
9. **Commercial Lodging Establishments Must Provide Option to Not Launder Linen Daily:** 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.
10. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new potable water service.
11. **No Installation of Non-re-circulating Water Systems in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating potable water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
12. **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.

The foregoing rules are subject to the enforcement provisions under Section II for Water Supply Response Level 1 Water Watch Condition.

## **II. MANDATORY CONSERVATION WATER SUPPLY RESPONSE RULES**

Should the conservation measures above be inadequate to protect the District's potable water supply, the District Board reserves the right to implement further mandatory conservation measures as outlined in the following Water Supply Response Rules.

These rules are necessary to respond to any significant reductions to the District's water supply as a result of drought, natural disasters, and planned or unplanned potable water outages. Upon declaration of the District's water supplier, or upon the District's own determination, that a drought or water shortage condition exists, or upon failure or shutdown of regional importation or local distribution systems or facility(ies) (i.e. main break, reservoir, pipeline) the following water use restrictions shall apply to all use of potable water for as long as drought or potable water shortage conditions exist. The provisions of these potable water use restrictions shall apply to all persons using potable water within the District, regardless of whether any person using potable water shall have a contract for water service.

**Nothing in these rules is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.**

Provisions in the District's Urban Water Shortage Contingency Plan (District Resolution No. 92-2) identify potable water demand reductions of up to 50%. These rules further develop the guidelines set forth in the four stages of the Urban Water Shortage Contingency Plan. While the State recognizes the District's extensive Recycled Water Program as being equivalent to a 20% reduction in potable demand in the Urban Water Shortage Contingency Plan, the District's water supplier does not give conservation credit for recycled water, and these rules reflect this fact.

<b>Water Supply Response Level</b>	<b>Use Restrictions</b>	<b>Conservation Savings</b>	<b>MNWD Urban Water Shortage Contingency Plan</b>
1 – Water Watch	Mandatory	Up to 10%	Level 1
2 – Water Alert	Mandatory	Up to 20%	Level 2
3 – Water Critical	Mandatory	Up to 40%	Level 3
4 – Water Emergency	Mandatory	Above 40%	Level 4

### **Water Supply Response Level 1 – Water Watch Condition**

A Water Supply Response Level 1 condition is also referred to as a “Water Watch” condition. A Level 1 condition applies when drought or other supply reductions occur resulting in a reasonable probability that there will be supply shortages and that additional consumer demand reduction of up to 10% is required to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Water Supply Response Level 1 and take action to implement the Level 1 conservation measures identified in this Program.

During a Level 1 Water Watch condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following mandatory water conservation measures:

1. All persons using District water shall comply with Rules 1 through 12 of Section I Mandatory Water Conservation Rules – Prohibition Against Waste.
2. All District staff will be alerted to the Level 1 conditions, supplied with educational material, and directed to actively intervene and educate the public when excessive use is observed.
3. All non-essential potable water use shall cease.
4. No person shall allow lawns, groundcover, shrubbery, other landscape material, or open ground to be watered at anytime while it is raining. Automatic irrigation controllers may be turned off manually or connected to a rain shutoff device.
5. No person shall permit water to leak which he or she has the authority to eliminate.
6. Property owners within the District who are installing new landscaping or re-landscaping existing properties are encouraged to utilize drought-tolerant plants to assist in decreasing demands on irrigation water.
7. District staff shall limit non-essential potable water use. All District facilities shall eliminate one day of irrigation per week.
8. Property owners who have a swimming pool or a spa are encouraged to cover said facilities to minimize water loss due to evaporation.
9. Repair all water leaks within five days of notification by the District unless other arrangements are made with the General Manager.
10. Construction water for grading must utilize recycled or non-potable water from a designated location to be determined by the District.

### **Water Supply Response Level 2 – Water Alert Condition**

A Water Supply Response Level 2 condition is also referred to as a “Water Alert” condition. A Level 2 condition applies when consumer demand reduction of up to 20% is required to have sufficient supplies available to meet anticipated demands. The District Board shall adopt a resolution declaring the existence of a Water Supply Response Level 2 condition and implementing the mandatory Level 2 conservation measures identified in this Program.

All persons using District water shall comply with Level 1 “Water Watch” conservation practices during a Level 2 “Water Alert”, and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three assigned days per week on the schedule below or as otherwise established by the General Manager and posted by the District. During the months of November through March, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This measure shall not apply to commercial growers or nurseries to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale.

### **Residential Irrigation**

#### **Aliso Viejo & Mission Viejo**

Monday & Thursday &  
Saturday or Sunday

#### **Dana Point, Laguna Hills & Laguna Niguel**

Tuesday & Friday &  
Saturday or Sunday

### **Commercial Irrigation**

Monday, Wednesday, & Friday

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 1 above, by using a bucket, hand-held hose with positive shutoff nozzle, or low-volume non-spray irrigation.
3. At the discretion of the General Manager, hire, divert, or employ additional staff and volunteers to monitor potable water usage, provide assistance to potable water users to reduce potable water consumption, and to monitor the enforcement of the requirements, restrictions, and priorities adopted by the District Board in response to the potable water shortage condition.
4. Cleaning of structures shall use a high pressure/low volume power washer. It is prohibited to use a hose while cleaning structures.
5. The District will prohibit the use of temporary fire hydrant meter(s), or otherwise using potable water through a temporary District water service including jumpers. The use of potable water from fire hydrants shall be limited to fire fighting and related activities, or other activities necessary to maintain the health, safety, and welfare of the public.
6. No potable water will be allowed for golf course greens. Golf courses are required to convert to recycled water within 30 days.
7. Repair all leaks within 72 hours of notification by the District, unless other arrangements are made with the General Manager.
8. The District may implement other prohibited water uses as determined by the District, after notice to the customers.

### **Water Supply Response Level 3 – Water Critical Condition**

A Water Supply Response Level 3 condition is also referred to as a “Water Critical” condition. A Level 3 condition applies when it is required to reduce consumer demand of up to 40% in order to have sufficient supplies available to meet anticipated demands. The District Board shall declare the existence of a Level 3 condition and implement the Level 3 conservation measures identified in this Program.

All persons using District water shall comply with Level 1 “Water Watch” and Level 2 “Water Alert” and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through March, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District.
2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 1 above, by using a bucket, hand-held hose with positive shutoff nozzle, or low-volume non-spray irrigation.
3. Permit required to fill, or refill, ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water supply response level under these rules.
4. Stop washing vehicles except at commercial carwashes that re-circulate potable water or by high pressure/low volume wash systems.
5. Emptying and refilling of swimming pools and spas, excluding normal maintenance of water levels due to evaporation, is prohibited, except as otherwise required to comply with Federal law "Virginia Graeme Baker Pool and Spa Safety Act of 2007."
6. Repair all leaks within 48 hours of notification by the District unless other arrangements are made with the General Manager.
7. Commercial growers or nurseries may be subject to additional restrictions if the District deems it necessary.
8. The District may implement other prohibited potable water uses as determined by the District, after notice to the customers.
9. No new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide

potable water service (such as will-serve letters) shall be issued, except under the following circumstances:

- i. A valid, unexpired building permit has been issued for the project; or
- ii. The project is necessary to protect the public's health, safety, and welfare; or
- iii. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new potable water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

10. The District will suspend consideration of annexations to its service area.
11. The District may establish water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the District establishes water allocation it shall provide notice of the allocation in the regular billing statement or by any other mailing to the address to which the District customarily mails the billing statement for ongoing water service. The notice of allocation may also include notice that water usage in excess of the allocation will be subject to a penalty in a specified amount for each billing unit of water used in excess of the allocation. The penalty for excess water shall be cumulative to any other remedy or penalty that may be imposed for violation of these rules.

#### **Water Supply Response Level 4 – Water Emergency Condition**

A Water Supply Response Level 4 condition is also referred to as a “Water Emergency” condition. A Level 4 condition applies when the District’s water supplier declares a water shortage emergency pursuant to California Water Code Section 350 and notifies its member agencies that demand reduction of more than 40% is required in order for the District to have maximum water supplies available to meet anticipated demands, or when the District makes a determination that such demand reduction is required. The District Board shall declare a Water Emergency on the grounds provided in California Water Code Section 350.

Upon declaration of a Water Emergency, all persons using water shall comply with conservation measures required during Level 1 – “Water Watch”, Level 2 – “Water Alert,” and Level 3 – “Water Critical” conditions and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than one assigned day per week on a schedule established by the General Manager and posted by the District.

This restriction shall not apply to the following categories of use unless the District has determined that Recycled Water is available and may be lawfully applied to the use:

- a. Maintenance of trees and shrubs that are watered using a bucket, hand-held hose with a positive shutoff nozzle, or low-volume non-spray irrigation.
  - b. Existing landscaping for fire prevention, if property owner provides proof of such need from the fire authority.
  - c. Maintenance of plant materials identified to be rare or essential to the well-being of rare animals.
  - d. Watering of livestock, e.g. horses, goats, chickens, etc.
  - e. Public works projects and actively irrigated environmental mitigation projects.
2. Repair all leaks within 24 hours of notification by the District unless other arrangements are made with the General Manager.
  3. No statements of immediate ability to serve or provide potable water service, or will-serve letters, will be issued.
  1. The District, in its sole discretion, may discontinue service to customers who willfully violate the measures of this section.
  5. The District may implement other prohibited water uses as determined by the District, after notice to the customers.

## **Procedures for Determination and Notification of Water Supply Response Level**

### Level 1

The existence of a Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the District Secretary and provided to the District Board. The General Manager may publish a notice of existence of a Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District service area. Notices may also be posted on the District's Web site at [www.mnwd.com](http://www.mnwd.com).

### Levels 2 and 3

The existence of a Level 2 or Level 3 condition may be declared by resolution of the District Board adopted at a public meeting held in accordance with State law. The mandatory conservation measures applicable to a Level 2 or Level 3 conditions shall take effect on the 10th day after the date the response level is declared. Within five days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for

publication of official notices and shall post a notice on the District's Web site at [www.mnwd.com](http://www.mnwd.com).

If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for water service. Water allocation shall be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

#### Level 4

The existence of a Level 4 condition may be declared by the District Board in accordance with the procedures specified in Water Code Sections 351 and 352, or as otherwise required by law. The mandatory conservation measures applicable to a Level 4 condition shall take effect on the 10th day after the date the response level is declared. Within five days following the declaration of the Response Level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. Notices may also be posted on the District's Web site at [www.mnwd.com](http://www.mnwd.com).

The District Board may declare an end to any Water Supply Response Level by the adoption of a resolution at any public meeting held in accordance with State Law.

#### **Hardship Variance**

If, due to unique circumstances or the application of other legal requirements, a specific requirement of this Program would result in undue hardship to a person using potable water or to property upon which water is used that is disproportionate to the impacts to District water users generally, then the person may apply for a variance to the requirements as provided in this section.

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 potable water or to property upon which water is used, that is disproportionate to the impacts to District users generally due to specific and unique circumstances of the user or user's property.

##### 1. Application

Application for a variance shall be a form prescribed by the District and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the District Board.

##### 2. Supporting Documentation

The application shall be accompanied by photographs, maps, drawings and other information, including a written statement of the applicant.

### 3. Required Findings For Variance

An application for a variance shall be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by District records, all by the following:

- a. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other District customers.
- b. Because of special circumstances applicable to the property or its use, the strict application of these rules would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.
- c. Such variance will not be of substantial detriment to adjacent properties, will not materially affect the ability of District to effectuate the purpose of these rules and will not be detrimental to the public interest.
- d. 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. All other conservation measures possible have been implemented.

### 4. Approval Authority

The General Manager shall exercise approval authority and act upon any completed application no later than ten days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory Water Supply Response Level.

### 5. Appeals

An applicant may appeal a decision or condition of the General Manager on a variance application to the District Board within 10 days of the decision upon written request for a hearing. The request shall state the grounds for appeal. At a public meeting, the District Board shall act as the approval authority and review the appeal *de novo* by following the variance procedure above. The District Board, in its discretion, may affirm, reverse or modify the determination, and the decision of the District Board is final.

## **Violations And Penalties**

All Levels

1. Any person, who uses, causes to be used, or permits the use of potable water in violation of these rules is subject to the fines and enforcement provisions as provided herein.
2. Each day that a violation of these rules occurs is a separate violation; provided that an act or failure to act on any day that causes a violation of more than one rule shall constitute only one daily violation.
3. Anytime after a first violation, additional violations are subject to enforcement through installation of a flow-restricting device in the meter, which costs of installation or removal shall be paid for by the person who uses, causes to be used, or permits the use of water in violation of these rules.
4. Each violation of these rules may be prosecuted as a misdemeanor punishable by imprisonment in the County jail for not more than 30 days or by fine not exceeding \$1,000, or by both as provided in Water Code Section 377.
5. All remedies provided for herein shall be cumulative and not exclusive.

#### **Levels 1 and 2**

1. For the first violation, the District shall issue a written notice of the fact of such violation to the customer's address of record.
2. For a second violation within 12 months from the first notice of violation, the District shall issue a written notice of the fact of such violation delivered via certified mail and first class mail to the customer's address of record.
3. For a third violation within 12 months from the first notice of violation, the customer shall be administratively fined \$100 which may be collected on the customer's water bill.
4. For the fourth and any subsequent violation within 12 months from the first notice of violation, of the customer shall be administratively fined \$200 which may be collected on the customer's water bill.

#### **Levels 3 and 4**

1. For the first violation, the District shall issue a written notice of the fact of such violation delivered via certified mail and first class mail to the customer's address of record.
2. For a second violation, the customer shall be administratively fined \$200 which may be collected on the customer's water bill.
3. For a third violation, the customer shall be administratively fined \$500 which may be collected on the customer's water bill.

4. For a fourth violation involving potable water for construction and/or irrigation use, the customer shall be administratively fined \$1,000 which may be collected on the customer's water bill.
5. Willful violations of the rules applicable during a Level 4 condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code Section 356.

### **Hearing Procedure**

Any customer receiving (1) notice of a second or subsequent violation under Levels 1 or 2, (2) notice of a first or subsequent violation under Levels 3 or 4, or (3) notice of misdemeanor enforcement, shall have a right to a hearing by the General Manager or his designees provided that a written request for hearing is filed within 15 days from the later of the certified date of delivery or the date of first class mailing, of the notice of violation and the customer deposits with the District a sum equal to any fine and pays all other outstanding water charges.

1. The customer's timely written request for a hearing shall automatically stay installation of a flow-restricting device until a decision is rendered.
2. If it is determined that a fine was wrongly assessed, the District will refund any money deposited to the customer.
3. The decision of the General Manager or his designee shall be provided in a written notification delivered via certified mail and first class mail to the customer's address of record and is subject to the appeal process set forth below.
4. A customer may appeal a hearing determination to the District Board upon submission of written request for a hearing within 10 days after the certified date of delivery, or the date of first class mailing, of the notification of decision. The request shall state the grounds for appeal. At a public meeting, the District Board shall review the appeal. The District Board, in its discretion, may affirm, reverse or modify the determination, and the decision of the District Board is final. Any determination of misdemeanor enforcement will be automatically reviewed by the District Board and the District Board, in its discretion, may affirm, reverse or modify that determination, and the decision of the District Board is final.

### **Termination**

The decision to discontinue one or more rules under this Water Conservation Program in response to improved water supply outlook will be made by the District Board based upon the recommendation of the General Manager.

EXHIBIT "F"  
WATER SAVING FIXTURE SPECIFICATIONS

Any new or remodeled plumbing, water piping, or other water using fixtures shall be of the "water sense" type or category identified under the most current California plumbing code shall comply with the specifications therefore.

WATER CLOSETS, TANK TYPE

All water closets must flush with 1.6 gallons of water or less.

URINALS

All urinals must flush with 1.0 gallon of water or less.

SHOWERHEADS

All showerheads shall be flow control types designed to limit the maximum flow to 2.5 gallons per minute.

LAVATORY AND SINK FAUCETS

All faucets shall be flow control types designed to limit maximum flow to 2.2 gallons per minute per valve or 4 gallons per minute on single control faucets.

NOTE: Fixtures and devices, which utilize restrictive devices, shall be of a type where such devices cannot be removed by the user.

PRE-RINSE SPRAY NOZZLES

Pre-rinse spray nozzles must use 1.6 gallons per minute or less, commercial use only.

HIGH-EFFICIENCY CLOTHES WASHER

Approved high-efficiency clothes washer must have a water factor of 6.0 or less.