

Section 7.40.040 Drought Response Conservation Program.

A. Definitions

(1) The following words and phrases whenever used in this chapter shall have the meaning defined in this section:

a. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

b. "Water Authority" means the San Diego County Water Authority.

c. "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this Chapter 7.40 and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

d. "Metropolitan" means the Metropolitan Water District of Southern California.

e. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

f. "SAWR" means the Special Agricultural Water Rate program available from Metropolitan that is administrated by the Water Authority.

B. Application

(1) The provisions of Chapter 7.40 apply to any person in the use of any water provided by the District and proposed users of District water, as applicable.

(2) Chapter 7.40 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. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.

(3) Nothing in Chapter 7.40 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.

(4) The provisions of Chapter 7.40 do not apply to use of water from private wells or to recycled water.

(5) Unless otherwise specifically authorized in this Legislative Code, nothing in Chapter 7.40 shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program. A person using water subject to Metropolitan Interim Agricultural Water Program is subject to Chapter 7.41. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program.

C. Drought Response Level 1 – Drought Watch Condition

(1) A Drought Response Level 1 condition is also referred to as a “Drought Watch” condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager may declare the existence of a Drought Response Level 1 and take action to implement the Level 1 conservation practices identified in this Section.

(2) During a Level 1 Drought Watch condition, District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices:

a. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.

b. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

c. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only.

d. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

e. Irrigate nursery and commercial grower’s products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment or rotating nozzles are used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

f. Use re-circulated water to operate ornamental fountains.

g. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that recirculates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.

h. Serve and refill water in restaurants and other food service establishments only upon request.

i. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.

j. Repair all water leaks within five (5) days of notification by the District unless other arrangements are made with the General Manager.

k. Use recycled or non-potable water for construction purposes when available and feasible.

D. Drought Response Level 2- Drought Alert Condition

(1) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. A Drought Response Level 2 "Drought Alert" condition was declared by the Board at a regular meeting of the Board on May 12, 2009. As such, effective July 1, 2009, a consumer demand reduction of up to eight percent (8%) is required in order to have sufficient supplies available to meet anticipated demands. At this time, the consumer demand reduction of 8% shall be voluntary and shall not be enforced by the District utilizing the enforcement and penalty provisions set forth in this Chapter 7.40.

(2) All District water use shall comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert and shall also comply with the following additional conservation measures:

a. Limit residential and commercial landscape irrigation to no more than three (3) assigned days per week on a schedule established by the General Manager. At this time, the General Manager's schedule calls for watering even numbered addresses on Monday, Wednesday and Friday; odd numbered addresses shall water on Tuesday, Thursday and Saturday. No watering shall occur on Sunday. The residential and commercial schedule shall be posted by the District and may be modified by the General Manager in his discretion. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager. The landscape irrigation schedule shall be posted by the District and may be modified by the General Manager in his discretion. This section shall not apply to commercial growers or nurseries.

b. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per assigned day. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and rotating nozzles.

c. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section D(2)(a) above, on the same schedule set forth in Section D(2)(a) above,

by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

d. Repair all leaks within seventy-two (72) hours of notification by the District unless other arrangements are made with the General Manager.

e. Stop operating ornamental fountains or similar decorative water features unless recycled water is used.

(3) During a Drought Response Level 2 condition, the District Board of Directors may find that drought conditions are such that an emergency condition exists and may declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350. In the event of a declared Drought Emergency, no applications for new potable metered water service or upsizing of metered water service shall be accepted, no new temporary meters or permanent meters shall be provided and no new statements of ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability, commitment letters, agency clearance forms, out-of-district potable water service agreements) shall be issued, except under the following circumstances:

- a. A valid, unexpired building permit has been issued for the project; or
- b. The project is necessary to protect the public's health, safety, and welfare; or
- c. 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 water meter(s) to the satisfaction of the District, in its sole discretion.

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

(4) The District may establish a water allocation for property served by the District using a method that does not penalize persons for the prior implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, the District shall provide notice of the allocation by including the allocation in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service.

(5) Under the Drought Response Level 2 "Drought Alert" condition, effective July 1, 2009, a consumer demand reduction of up to thirteen percent (13%) is required for SAWR accounts in order to have sufficient supplies available to meet anticipated demands. Notwithstanding any provisions in this Chapter 7.40 or Chapter 7.41 to the contrary, violations of the conditions of SAWR program are subject to the penalties established under the applicable Metropolitan's SAWR program requirements. The consumer demand reduction amount of thirteen (13%) is mandatory and is subject to penalties assessed by Metropolitan under the SAWR program.

E. Drought Response Level 3 – Drought Critical Condition

(1) A Drought Response Level 3 condition is also referred to as a "Drought Critical" condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of

supplies, a consumer demand reduction of up to forty percent (40%) is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Drought Response Level 3 condition and implement the Level 3 conservation measures identified in this policy.

(2) All District water use shall comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices and measures during a Level 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:

a. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through May, 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 section shall not apply to commercial growers or nurseries.

b. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section E(2)(a), on the same schedule set forth in Section E(2)(a) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

c. Stop filling or re-filling 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 Drought response level under this Chapter 7.40.

d. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems.

e. Repair all leaks within forty-eight (48) hours of notification by the District unless other arrangements are made with the General Manager.

(3) During a Drought Response Level 3 condition, the District Board of Directors may find that drought conditions are such that an emergency condition exists and may declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350. In the event of a declared Drought Emergency, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided and no applications for new potable metered water service or upsizing of metered water service shall be accepted, no new temporary meters or permanent meters shall be provided and no new statements of ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability, commitment letters, agency clearance forms, out-of-district potable water service agreements) shall be issued, except under the following circumstances:

- a. A valid, unexpired building permit has been issued for the project; or
- b. The project is necessary to protect the public's health, safety, and welfare; or
- c. 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 water meter(s) to the satisfaction of the District, in its sole discretion.

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

(4) The District may establish a water allocation for property served by the District using a method that does not penalize persons for the prior implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, the District shall provide notice of the allocation by including the allocation in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses the water in excess of the allocation shall be subject to a penalty equal to two (2) times the District's billing rate for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Chapter. For the purpose of assessing administrative fines pursuant to Chapter 7.40.041, each billing period in which an allocation is exceeded shall count as a separate violation. Subsequent violations that occur during a calendar year shall count cumulatively for the purpose of assessing administrative fines for second violations and additional violations.

F. Drought Response Level 4- Drought Emergency Condition

(1) A Drought Response Level 4 condition is also referred to as a "Drought Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than forty percent (40%) percent in order for the Authority to have maximum supplies available to meet anticipated demands. Upon declaration by the Authority of a Drought Emergency Condition, the District may declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350 et seq.

(2) All District water use shall comply with conservation practices and measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:

a. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. 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.

(i) Maintenance of trees and shrubs that are watered on the same schedule set forth in Section E(2)(a) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

(ii) Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

(iii) Maintenance of existing landscaping for erosion control;

(iv) Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

(v) Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under Section E(2)(a) above;

(vi) Watering of livestock; and

(vii) Public works projects and actively irrigated environmental mitigation projects.

b. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the General Manager.

The District may establish a water allocation for property served by the District. If the District establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty equal to three (3) times the District's billing rate for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Chapter. For the purpose of assessing administrative fines pursuant to Chapter 7.40.041, each billing period in which an allocation is exceeded shall count as a separate violation. Subsequent violations that occur during a calendar year shall count cumulatively for the purpose of assessing administrative fines for second violations and additional violations.

G. Correlation Between Drought Management Plan and Drought Response Levels

(1) The correlation between the Water Authority's Drought Management Plan ("DMP") stages and the District Drought response levels identified in this Chapter is described herein. Under DMP Stage 1, the District may implement Drought Response Level 1 actions. Under DMP Stage 2, the District would implement Drought Response Level 1 or Level 2 actions. Under DMP Stage 3, the District may implement Drought Response Level 2, Level 3, or Level 4 actions.

The Drought Response Levels identified in this Chapter correspond with the Water Authority DMP as identified in the following table:

Drought Response Levels	Use Restrictions	Conservation Target	DMP Stage
1 - Drought Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Drought Alert	Mandatory	Up to 20%	Stage 2 or 3
3 - Drought Critical	Mandatory	Up to 40%	Stage 3
4 - Drought Emergency	Mandatory	Above 40%	Stage 3 or 4

H. Procedures for Determination and Notification of Drought Response Level

(1) The existence of a Drought Response 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 Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District may also post notice of the condition on their website.

(2) The existence of Drought Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law, including but not limited to Water Code section 350 et seq. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions shall become effective as stated in the Board Resolution. Within ten (10) 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.

(3) The existence of a Drought Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 351 and 352. The mandatory conservation measures applicable to Drought Response Level 4 conditions shall become effective as stated in the Board Resolution. Within ten (10) 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. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall become effective as stated in the Board Resolution.

(d) The General Manager may declare the end of Drought Response Level 1. The District Board of Directors may declare an end to a Drought Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.