



2021- 01
RETAIL ZONE WATER
SHORTAGE CONTINGENCY
RESPONSE ORDINANCE

August 2021

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ORDINANCE NO. 2021-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE EAST ORANGE COUNTY WATER DISTRICT ESTABLISHING A RETAIL ZONE WATER SHORTAGE CONTINGENCY RESPONSE

Section I. Title

East Orange County Water District Retail Zone Water Shortage Contingency Response Ordinance (“Ordinance”)

Section II. Findings

1. **A reliable minimum supply of 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 along with a limited amount of local water supplies. 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. Southern California experienced significant dry year conditions in 2012-2017, which lead local water agencies, including East Orange County Water District (District) to declare water shortage conditions that triggered demand reduction actions.
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 10632** had significant updates related to water shortage contingency planning following the modification of the Urban Water Management Planning Act in 2018 that mandate new elements to Urban Water Management Plans and Water Shortage Contingency Plans. These elements include an annual drought risk assessment, State Water Shortage Levels, and statewide water use prohibitions.
6. **The Municipal Water District of Orange County (MWDOC) has adopted a 2020 Urban Water Management Plan and Water Shortage Contingency Plan documents that includes water conservation** and additional demand mitigation actions in times of shortage as a necessary and effective component of MWDOC's programs to provide a reliable supply of water to meet the needs of MWDOC's 28 member agencies, including the District, with which this Ordinance is consistent.
7. **The imported water supplies in the District and MWDOC are subject to the Water Shortage Allocations** determined by the Metropolitan Water District of Southern California, and subsequently MWDOC will be required to curtail deliveries of imported water based on MWDOC's Water Shortage Allocation Plan, which will be triggered in a state of shortage.
8. **Local groundwater supplies from the Orange County Groundwater Basin are limited by the Basin Pumping Percentage**, which is set by Orange County Water District on an annual basis. A supply reduction that may result from the annual Basin Production Percentage will be included in the District's Annual Water Supply and Demand Assessment.
9. **As of July 2021, both MWDOC and the District are required to prepare an Annual Water Supply and Demand Assessment and Drought Risk Assessment** as part of their Urban Water Management Plan for submission to the California Department of Water Resources. Annually, by July 1st of each year, beginning the year following the adoption of the 2020 Urban Water Management Plan. MWDOC and the District are required to monitor, report, and if declared a drought emergency according to their adopted Water Shortage Contingency Plans, then notify the Department of Water Resources, in order to comply with the California Water Code 10632.1 reporting requirements.
10. **California Water Code Section 353** specifies that a governing body must adopt regulations or restrictions on the delivery and consumption of water within its service area when it declares the existence of an emergency condition.
11. **California Water Code Section 375** authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.

12. **California Water Code Section 31027** sets forth the public notification, public meeting and public hearing requirements for water providers proposing the establishment of a water conservation program, ordinance or resolution.
13. **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.
14. **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.
15. **California Water Code Section 377** authorizes water suppliers to enforce a comprehensive water conservation program to reduce water consumption through establishment of non-compliance charges and other penalties, subject to advance notification to water users.
16. **Health and Safety Code Section 5471** authorizes the District to apply charges or fees to persons or entities that fail to comply with any provision of this Water Shortage Response Ordinance in order to recover administrative and enforcement costs due to non-compliance (including but not limited to notices, postings, hearings, water waste violations, water shortage demand mitigation measures, shut offs, account management, data collection).
17. **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.
18. **California Water Code Sections 13550 and 13551** declare a statewide policy that the use of 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.
19. **The adoption and enforcement of a Water Shortage Response Ordinance is necessary to manage the District's 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.
20. **The proposed Ordinance shall replace the District's Ordinance No. 2009-01, adopted June 18, 2009.**

Section III. Declaration of Purpose and Intent

1. To minimize or avoid the effect and hardship of potential shortages of **water** to the greatest extent possible, this Ordinance establishes means to implement the District's Water Shortage Contingency Plan for the Retail Zone designed to:

- a. Reduce water consumption (demand) through conservation long term through permanent conservation measures and short term through demand mitigation actions in times of drought.
- b. Enable effective water supply reliability planning
- c. Assure reasonable and beneficial use of water
- d. Prevent waste of water and maximize efficient use in the District

2. **The Ordinance establishes:**

- a. **Permanent water conservation standards** designed to alter behaviors related to water-use efficiency during non-shortage conditions.
- b. Regulations to be implemented during times of declared water shortages or declared water shortage emergencies.
- c. **Six levels of potential response to escalating water supply shortages** which the East Orange County Water District Board may choose to implement during times of declared water shortage or water emergency. The six levels of response consist of increasing water use restrictions and demand mitigation actions as a result of worsening water shortage (including drought) conditions, emergencies, and/or decreasing supplies.

Section IV. Definitions

1. **General**

- a. **“The District”** means East Orange County Water District.
- b. **“The Board”** means the East Orange County Water District Board of Directors.
- c. **“Retail Zone”** means that sub-portion of the District to which the District directly provides local and imported water supplies to residential and commercial customers.
- d. **“Wholesale Zone”** means that sub-portion of the District to which the District provides imported water supplies to five retail entities: the City of Orange, the City of Tustin, the Irvine Ranch Water District, the Golden State Water Company and the Retail Zone of the East Orange County Water District.

- e. **“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.
- f. **“MWDOC”** means the Municipal Water District of Orange County.
- g. **“Water”** means water that is suitable for drinking.
- h. **“Water Use Restrictions”** refers to restrictions enforceable by the District to address progressive stages of water shortage, as defined by the District's Water Shortage Contingency Plan.
- i. **“Demand Mitigation Actions”** refers to education, incentive or regulatory actions taken by the District to reduce water demand in its Retail Zone service area during times of shortage. Demand mitigation actions pre-planned to prepare for a water shortage were presented in Table 8-2 of the District's Water Shortage Contingency Plan.
- j. **“Annual Water Supply and Demand Assessment”** refers to a determination of the near-term outlook for supplies and demands and how a perceived shortage may relate to the Shortage Leve response actions as defined in the Water Shortage Contingency Plan in the current calendar year.
- k. **“Water Waste”** refers to uses of water that are limited or prohibited under the District's Ordinance and Water Shortage Contingency Plan because they exceed necessary or intended use and could reasonably be prevented, such as runoff from outdoor watering.
- l. **“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.”
- m. **“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.
- n. **“Imported Water Supply”** refers to the District's total imported water supply over a given period, e.g. more recent calendar years 2018, 2019 and 2020 or as defined by the Metropolitan Water District of Southern California (Met).
- o. **“User's Base Consumption”** refers to the average amount of water used by a Person during a given period, e.g., during the calendar year 2018, 2019 and 2020 or as defined by the District.
- p. **“Covered Pool or Covered Spa”** refers to pools and/or spas that have a cover that minimizes evaporation.

2. Irrigation

- a. **“Automatic Shut-Off Nozzle”** refers to a water-efficient nozzle for use with residential or commercial hoses that has a feature that must be pressed to start the flow or releasing the feature stops the flow of water. -
- b. **“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.
- c. **“Irrigation System”** refers to a manual or automated watering system consisting of pipes, hoses, drip system components, spray heads and/or sprinkler devices or valves. Also known as a “Landscape Irrigation System.”
- d. **“Positive Shut-Off Valve”** refers to a water-efficient valve for residential or commercial hoses that users can quickly and positively start or stop the flow of water. A ball valve would satisfy this requirement.
- e. **“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 re-circulate the water and considered a form of water waste.

Section V. Application of Ordinance

1. **Ordinance provisions apply to any person or entity using 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 the Ordinance may not apply to the following:**
 - a. **Water use 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, recycled water is exempt from all requirements of this Ordinance.
 - c. **Water used by commercial nurseries and growers** to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale.
 - d. **Water used from private wells.**
3. **This Ordinance is intended solely to further the beneficial use and 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 storm water ordinances or management plans.

Section VI: Permanent Mandatory Water Conservation Measures

The District has adopted a Water Shortage Contingency Plan which details demand mitigation actions that the District may take to restrict or shall prohibit its customers' consumption of water, including baseline conservation measures to be taken in times of normal water supply. The following Permanent Mandatory Water Conservation Measures, in support of Demand Mitigations Actions as called for in the Water Code, are in effect at all times, whether or not there is a water supply shortage or emergency. The California Green Building Code and County Ordinances (e.g., Water Wise Landscaping) is also in effect as applicable.

1. **General Restrictions – Residential, Commercial and Public Customers**
 - a. **Limits on Watering Duration**
 1. **Watering or irrigating with a device or system that is not continuously attended is limited to no more than 10 minutes per valve, per day.**

2. This applies to lawns, landscaping and all other vegetated areas.
3. The following irrigation systems are **exempt**:
 - a. Low-volume drip-type systems that will achieve the conservation goals of this Ordinance.
 - b. Systems equipped with weather-based controllers or rotating stream-rotor sprinklers that meet a 70% irrigation efficiency design standard.
- b. **No Excessive Water Flow or Runoff:**
 1. 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 property, sidewalk, driveway, street, alley, gutter or ditch.
 2. It is prohibited to irrigate outdoor landscapes during or within forty-eight (48) hours after measurable rainfall event.
- c. **Restricted watering times**
 1. Water or irrigating of lawn, landscape or other vegetated area with potable water is limited to the number of days per week established by the District and based on the Water Shortage Level in the Water Shortage Contingency Plan.
 - a. An exception is made for the use of hand-water shut-off nozzle or device, watering with a hand-held bucket or similar container, landscape irrigation systems that exclusively use very low-volume drip, and for fruit trees and vegetable gardens.
 2. Watering of lawn, landscape or other turf areas between the hours of 8:00 a.m. and 5:00 p.m. is prohibited
 - a. Hand-held water cans, buckets, or similar containers reasonably used to convey water for irrigation purposes are not subject to these time restrictions. Similarly, a hand-held hose equipped with a fully functioning, positive self-closing water shut-off nozzle, pressure washer or similar device, may be used during the otherwise restricted period.
- d. **Automatic Rain Shut-Off for Automated Irrigation Systems**
 1. **New residential and non-residential** automated irrigation systems must be equipped with:
 - a. Rain sensors that shut-off the system when it rains, **or**

- b. Smart controllers or evapotranspiration sensors that use weather-based data to set efficient watering schedules
 - 2. *As of July 1, 2010, **new and existing*** automated irrigation systems connected to dedicated irrigation meters must be equipped with:
 - a. Rain sensors that shut off the system when it rains, **or**
 - b. Smart controllers or evapotranspiration sensors that use weather-based data to set efficient watering schedules
 - d. **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 immediately shut-off upon District notification, unless Undue Hardship occurs.
Must be corrected within the timeframe specified in the Water Shortage Contingency Plan based on the declared Water Shortage Level.
- e. **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 to 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 shut-off valve.
 - c. Low-volume high-pressure cleaning machine or "water broom"
- f. **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 shut-off valve

c. Commercial car washing facility

g. **Re-Circulating Decorative Water Fountains and Features:** *Effective January 1, 2011*, all decorative water fountains and water features must re-circulate water – or users must secure a waiver from the District.

h. **Filling or re-filling ornamental lakes, ponds, and swimming pools**

1. Filling or refilling ornamental lakes and ponds may be prohibited based on the declared Water Shortage Level.

a. An exception is made for those that sustain aquatic life provided such life is of significant value and was actively managed in the water feature prior to declaring the shortage.

2. Filling or refilling uncovered residential swimming pools or uncovered outdoor spas may be prohibited based on the declared Water Shortage Level.

i. **Unauthorized Use of Fire Hydrants Prohibited**

1. No person may use water from any fire hydrant for any purpose other than fire suppression or emergency aid without first:

a. Requesting and posting the appropriate fees at the District.

b. Obtaining a hydrant meter to record all water consumption for a specified project. Absent a meter, water theft and meter tampering fees will be applied as appropriate.

j. The District may implement other prohibited water uses as deemed necessary, following notification of customers, when in a Declared Water Shortage. Additionally, the District may restrict new meters from being provided and limit provisions of potable water service based on the water supply reliability, as indicated in the District's Water Shortage Contingency Plan.

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, 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 daily. 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. *Effective January 1, 2010, existing* kitchen spray valves must be retrofitted to models using 1.6 gallons of water or less per minute.
- b. **Best-Available Water-Conserving Technology.** All water-using equipment in new or remodeled commercial kitchens must use the best-available, water-conserving technology, for example, technologies cited on the California Urban Water Conservation Council (CUWCC) website.
- c. **No Defrosting With Water.** Defrosting food with running water is prohibited.
- d. **Scoop Sinks.** Scoop sinks (dipper wells) shall be set at minimum water flow at all times of use and shut off during non-working hours.
- e. **Automatic Shut-Off Nozzles.** When hosing or washing kitchen or garbage areas or other areas for sanitary reasons as required by the Health Dept., hoses shall be equipped with positive shut-off valve.

4. Commercial Water Recirculation Requirements

- a. **Car Wash and Laundry System Requirements:**
- b. All **new** commercial laundry facilities and systems must re-circulate the wash water -- or secure a waiver of this requirement from the District.
 - 1. *Effective on January 1, 2012, all* commercial car wash systems must have installed re-circulating water systems – or secure a waiver of this requirement from the District.
- c. **No Single-Pass Cooling Systems:** Buildings requesting **new** water service or being **remodeled** are prohibited from installing single-pass systems.

5. Construction Site Requirements

- a. **Recycled or non-potable water** must be used, when available.
- b. **No 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 Dept. of Public Health and appropriate for such use.

- c. **Water hoses shall be equipped with automatic shut-off valves**, given such devices are available for the size and type of hoses in use.
- 6. **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.
- 7. **Public Health and Safety.** These regulations shall not be construed to limit water use which is immediately necessary to protect public health and/or safety.

Section VII: Standard Water Shortage Levels

The District's Water Shortage Levels are aligned with the six standard State Water Shortage Levels and as defined in MWDOC's as well as the District's Water Shortage Contingency Plan to comply with California Water Code Section 10632 (a)(3) as identified above. The shortage levels represent shortages from normal reliability as determined in the Annual Water Supply and Demand Assessment, corresponding to progressive ranges of up to 10, 20, 30, 40, and 50 percent shortages and greater than 50 percent shortage. DWR Table 8-1 from the District's Water Shortage Contingency Plan defines the conditions that trigger each shortage level and the shortage response actions the District can take.

DWR Submittal Table 8-1 Water Shortage Contingency Plan Levels		
Shortage Level	Percent Shortage Range	Shortage Response Actions
0	0% (Normal)	A Level 0 Water Supply Shortage –Condition exists when the District notifies its water users that no supply reductions are anticipated in this year. The District proceeds with planned water efficiency best practices to support consumer demand reduction in line with state mandated requirements and local District goals for water supply reliability. Permanent water waste prohibitions are in place as stipulated in the District's Water Shortage Response Ordinance.
1	Up to 10%	A Level 1 Water Supply Shortage – Condition exists when the District notifies its water users that due to drought or other supply reductions, a consumer demand reduction of up to 10% is necessary to make more efficient use of water and respond to existing water conditions. The District shall implement the mandatory Level 1 conservation measures identified in this WSCP. The type of event that may prompt the District to declare a Level 1 Water Supply Shortage may include, among other factors, a finding that its wholesale water provider calls for extraordinary water conservation.

DWR Submittal Table 8-1 Water Shortage Contingency Plan Levels		
Shortage Level	Percent Shortage Range	Shortage Response Actions
2	11% to 20%	A Level 2 Water Supply Shortage – Condition exists when the District notifies its water users that due to drought or other supply reductions, a consumer demand reduction of up to 20% is necessary to make more efficient use of water and respond to existing water conditions. Upon declaration of a Level 2 Water Supply Shortage condition, the District shall implement the mandatory Level 2 conservation measures identified in this WSCP.
3	21% to 30%	A Level 3 Water Supply Shortage – Condition exists when the District declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that up to 30% consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The District must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.
4	31% to 40%	A Level 4 Water Supply Shortage - Condition exists when the District declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that up to 40% consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The District must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.
5	41% to 50%	A Level 5 Water Supply Shortage - Condition exists when the District declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that up to 50% or more consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The District must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.
6	>50%	A Level 6 Water Supply Shortage – Condition exists when the District declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that greater than 50% or more consumer demand reduction is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The District must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350.
<u>NOTES:</u>		

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The shortage response actions that align with each Level of Water Supply Shortage are defined in the District's Water Shortage Contingency Plan, along with an estimate of the extent to which the gap between supplies and demand will be reduced, and include:

- a. Locally appropriate supply augmentation actions.
- b. Locally appropriate demand reduction actions to respond to shortages.
- c. Locally appropriate operational changes.
- d. Additional mandatory prohibitions against specific water use practices, in addition to state-mandated prohibitions, as deemed necessary by the District.

Each elevated shortage level will include the elements of the previous shortage level(s), including permanent mandatory water conservation measures as defined in this Ordinance and the Water Shortage Contingency Plan. As deemed necessary, an allocation of water supply under a water supply emergency condition beyond Water Shortage Contingency Plan defined actions may be required to be implemented when conditions dictate necessary.

Section VIII: Optional Demand Mitigation Actions

- a. The District Board of Directors, at its sole discretion, may establish Optional Demand Mitigation Actions, during any Level of a Water Supply Shortage or Water Shortage Emergency.
- b. If any of the following Optional Demand Mitigation Actions are established, **public notification** will precede program implementation.
- c. **Water Allocation or Water Budget Program**
 1. The District Board of Directors, at its sole discretion, may establish water allocations or water budgets for properties served by the District -- using a method that does not penalize persons for either the implementation of the conservation method or installation of water-saving devices and includes the User's Base Consumption.
 2. Following the effective date of a water allocation or budget program, any person using water in excess of the allocation or budget will be subject to a penalty as determined by the District rate schedule.
 3. The penalty for excess water use will be cumulative to any other remedy or penalty imposed for violation of this Ordinance.

- d. **Increased Water Usage Rates:** The District Board of Directors, at its sole discretion, may increase water usage rates by an amount deemed necessary, as determined by the District's rate schedule.
- e. **Percentage-Use Reduction for Commercial Customer:** The District Board of Directors, at its sole discretion, may require commercial customers to reduce water use by a certain percentage, as determined by the District.

Section IX. Reevaluation and Improvement Process of Water Shortage Procedures

To ensure water shortage risk tolerance is adequate and appropriate water shortage mitigation actions are implemented as needed, the District's Water Shortage Contingency Plan will be reviewed and evaluated as defined by the procedures identified in the Water Shortage Contingency Plan.

Section X. Other Provisions

1. Customer Water Conservation Plans:

- a. **Customers with high annual water usage.** During any Level of 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 **five thousand (5,000) 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 through on-site demand mitigation actions, including increased use of recycled water or other alternative sources of supply based on feasibility. Quarterly progress reports must include status on implementation of recommendations.

Section XI. Declaration & Notification of Water Shortages/Emergencies

- 1. **Notification of Declared Water Shortages and Emergencies:** The District Board shall declare a Water Shortage Level in accordance with the procedures specified in Water Code Sections 351 and 352. Upon declaration of a Water Shortage, the District will inform all relevant stakeholders, the public, interested parties, and local, regional, and state governments, of the effective date of the water shortage response actions associated with the relevant stage according to the communication procedures identified in the District's Water Shortage Contingency Plan.
 - a. The District must publish a copy of the water shortage/emergency resolution online and in a local publication (e.g. newspaper) used for the

publication of official notices within the jurisdiction of the District within **ten (10) business days** of the date that the shortage level is declared.

- b. Demand mitigation actions will take effect after District approval in a timeframe as deemed necessary due to the emergency response needs of the District and its customers.

2. **Notification of Declared Water Allocation or Water Budget Program**

- a. If the District Board of Directors, at its sole discretion, establishes a water allocation or water budget program **during a Water Shortage or Water Emergency**:
 1. The District will provide **notice of the program** to customers via U.S. mail, other mailings in which the District customarily sends billing statements, and/or e-mail outreach and/or automated calling.
 2. The program will take effect on the date of the notification mailing or at such later date as specified in the 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 and accompanied by a non-refundable processing fee in an amount set 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) business 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

In order to ensure compliance with State reporting requirements and customer compliance, the District will collect, track, and analyze relevant data per the procedures defined in the District's Water Shortage Contingency Plan.

1. Non-Compliance with Permanent, Level 1, & Level 2, and Level 3 Mandatory Conservation Measures

- a. The following will apply to persons or entities that fail to comply with any provision of the Ordinance for Permanent, Level 1, 2, and 3 mandatory water conservation measures and demand mitigation actions.

1. **First Instance of Non-Compliance:** The District will issue a **written warning** and send it and a copy of the Ordinance by mail.
 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 not to exceed **the fee designated per the District's Fee Schedule in Exhibit A.**
 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 not to exceed **the fee designated per the District's Fee Schedule in Exhibit A.**
 4. **Fourth and Subsequent Instances of Non-Compliance:** A fourth or any subsequent instance of non-compliance with this Ordinance is punishable by a non-compliance charge not to exceed **the fee designated per the District's Fee Schedule in Exhibit A.**
- b. **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.
- c. **Separate Offenses:** Each day that a person or entity is non-compliant with the Ordinance is a separate offense after the initial citation is issued.

2. **Non-Compliance with Level 4, 5 and 6 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 4, 5, and 6 mandatory water conservation measures and demand mitigation actions:
1. **First Instance of Non-Compliance:** The District will issue a **written warning** and send it and a copy of the Ordinance by mail.
 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 not to exceed **the fee designated per the District's Fee Schedule in Exhibit A.**
 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 not to

exceed **the fee designated per the District's Fee Schedule in Exhibit A.**

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) business days before taking enforcement action. The notice will describe the violation and 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 day before the date scheduled for 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) business 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. **A customer may appeal a Hearing Determination** to the District Board of Directors by written request for a hearing within ten business (10) days after the certified date of delivery or date of first class mailing of the Notification of Decision. The request shall state the grounds for appeal. At a public meeting, the Board **shall review the appeal** and, at its sole discretion, may affirm, reverse or modify the Hearing Determination. **The decision of the Board is final.**
- d. 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.
- e. Except for violations of this Ordinance subject to excessive water use penalties, if any person fails or refuses to comply with this Ordinance, the District shall provide that Person with **written notice of the Non-Compliance and an opportunity to correct it.** The written notice shall:
 1. Be posted or presented at the site of the Non-Compliance;
 2. State the time, date, and place of the Non-Compliance;
 3. State a general description of the Non-Compliance;
 4. State the means to correct the Non-Compliance;
 5. State a date by which correction is required; and
 6. State the possible consequences of failing to correct the Non-Compliance.

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

EOCWD Water Shortage Contingency Response Ordinance No. 2021-01

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.

Section XV: Repeal of Ordinance No. 2009-01: Ordinance No. 2009-01 is hereby repealed in its entirety.

Section XVI: Effective Date: This Ordinance shall take effect 30 days after its passage. The Secretary shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

THE FOREGOING ORDINANCE was introduced at a meeting of the board of Directors of EOCWD held on August 19, 2021, following a public hearing, notice of which was published on August 14, 2021.

PASSED AND ADOPTED by the Board of Directors of the East Orange County Water District at a regular meeting held on the 19th day of August, 2021.



/s/ Douglas S. Davert

President

EAST ORANGE COUNTY WATER DISTRICT
and the Board of Directors
thereof



/s/ Jeffrey A. Hoskinson

Secretary

EAST ORANGE COUNTY WATER DISTRICT
and the Board of Directors
thereof

EXHIBIT A
EAST ORANGE COUNTY WATER DISTRICT
WATER SHORTAGE CONTINGENCY RESPONSE ORDINANCE
FEE SCHEDULE

A. Non-Compliance with Permanent, Level 1, Level 2, and Level 3 mandatory water conservation measures and demand mitigation actions:

1. First Instance of Non-Compliance: written warning sent with a copy of the Ordinance by mail.
2. Second Instance of Non-Compliance: seventy-five dollars (\$75).
3. Third Instance of Non-Compliance: one hundred fifty dollars (\$150)
4. Fourth and Subsequent Instances of Non-Compliance: three hundred dollars (\$300).

B. Non-Compliance with Level 4, Level 5, and Level 6 mandatory water conservation measures:

1. First Instance of Non-Compliance: written warning sent with a copy of the Ordinance by mail.
2. Second Instance of Non-Compliance: three hundred dollars (\$300).
3. Third Instance of Non-Compliance: six hundred dollars (\$600).