

**ORDINANCE NO. 07-16-09**

AN ORDINANCE OF WALNUT VALLEY WATER DISTRICT  
AMENDING AND RESTATING ORDINANCE NO. 06-09-07  
TO ESTABLISH WATER USE EFFICIENCY REQUIREMENTS AND  
WATER SUPPLY SHORTAGE STAGES

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BE IT ORDAINED BY THE BOARD OF DIRECTORS OF WALNUT VALLEY WATER DISTRICT (DISTRICT) AS FOLLOWS:

**Section 1: Finding**

- A. Careful water management that includes active water conservation measures at all times is essential to ensure a reliable supply of water to meet current and future water supply needs within the District's service area.
- B. Article X, Section 2, of the California Constitution declares that the general welfare requires that water resources 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.
- C. California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- D. Section 4.07 of the District's Rules and Regulations ensures that water resources available to the District are put to a reasonable beneficial use and that the benefits of the District's water supply and service extend to the greatest number of persons.
- E. The adoption and enforcement of water use efficiency requirements and water supply shortage stages are necessary to manage the District's potable water supply to avoid or minimize the effects of drought and shortage within the District. Such measures are essential to ensure a reliable and sustainable minimum supply of water for the public health, safety, and welfare.
- F. In June 2009 the District's Board of Directors adopted Ordinance No. 06-09-07 to establish water use efficiency requirements and water supply shortage stages. California's recent drought and the resulting actions the District has had to take to comply with applicable regulatory requirements has demonstrated that various revisions to that ordinance are necessary to provide greater flexibility for the District to implement water supply shortage restrictions in relation to current water supply conditions and near-term forecasts. The District's Board of Directors therefore is amending and restating Ordinance No. 06-09-07 through this Ordinance No. 07-16-09 to provide that greater flexibility.

**Section 2: Purpose**

- A. The purpose of this Ordinance is to establish water use efficiency requirements and water supply shortage stages that will reduce water consumption within the District through conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the District to avoid and minimize the effect and hardship of water shortage on the District and its customers to the greatest extent possible.
- B. This Ordinance establishes permanent water efficiency use requirements intended to alter behavior related to water use efficiency at all times and further establishes four (4) stages of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.

**Section 3: Application**

- A. The provisions of this ordinance apply to any person in the use of any potable water provided by the District.
- B. The provisions of this ordinance do not apply to uses of water necessary to protect public health and safety by the District or essential government services, such as police, fire, and other similar emergency services.
- C. The provisions of this ordinance do not apply to the use of recycled water.
- D. The provisions of this ordinance do not apply to the use of water by commercial nurseries and commercial growers to sustain plants, trees, shrubs, crops, or other vegetation intended for commercial sale.

**Section 4: Authorization**

- A. **The District's General Manager or his or her designated representative is hereby authorized and directed to implement the staged water conservation and enforcement provisions of this Ordinance as necessary. In that regard, the General Manager or his or her designated representative shall have the authority to select from among the mandatory water use restrictions, including daily irrigation limitations, specified for each particular stage of water supply shortage based on the District's then existing water supply conditions.**

**Section 5: Water Use Efficiency Requirements – Prohibition Against Water Waste/Permanent Water Use Restrictions**

- A. As part of the District's ongoing commitment to water use efficiency at all times, the following water use efficiency requirements are effective at all times and are permanent requirements set forth in the District's Rules and Regulations, Section 4.07.01. Violations of this section will be considered waste and an unauthorized use of water, which will result in penalties outlined in Section 12.
1. **Limit on Watering Duration:** Watering or irrigating of lawn, landscape, or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.
  2. **Limits on Watering Hours:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 8:00 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 short periods of time for the express purpose of adjusting or repairing an irrigation system.
  3. **Limits on Watering Following Precipitation/Rainfall:** Watering or irrigating of lawn, landscape, or other vegetated area with potable water within forty-eight (48) hours following measurable precipitation is prohibited.
  4. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape, or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter, or ditch is prohibited.
  5. **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 self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.
  6. **Obligation to Fix Leaks, Breaks, or Malfunctions:** Excessive use, loss, or escape of 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 seven (7) days of after receiving written notice from the District is prohibited.
  7. **Limits on Washing Vehicles:** Using 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 self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.
  8. **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.
  9. **No Installation of Single Pass Cooling Systems Water System:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
  10. **No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems
  11. **No Irrigating Ornamental Turf on Public Street Medians:** Irrigating ornamental turf on Public Street Medians with potable water is prohibited.

12. **Negligent Waste of Water:** At the discretion of the General Manager, the District reserves the right to determine negligent waste or misuse of water supplies. Such water use constitutes an unauthorized waste of water and is subject to the imposition penalties outlined in Section 12.

B **Voluntary Conservation:** In addition to the prohibited uses of water identified above, District customers are encouraged to voluntarily conserve water at all times. District customers are therefore requested to voluntarily implement the mandatory water use restrictions set forth in Stages 1, 2, 3 and 4, to the extent feasible during times when those mandatory restrictions may not be in effect.

**Section 6:      Stage 1 Water Supply Shortage - (10% - 15% Reduction of Water Use)**

A. A Stage 1 Water Supply Shortage exists when the District, through its Board of Directors, determines that due to drought, a water supply shortage or a threatened water shortage exists, and customer allocations are necessary to make more efficient use of water and appropriately respond to existing water conditions and a 10% - 15% reduction of water use will be required to lower overall water demand. Percentage will be determined by action of the District's Board of Directors and be publically announced in accordance with Section 10, below.

B. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section 5, the following water conservation requirements apply during a declared Stage 1 Water Supply Shortage:

1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water will be limited to a maximum number of days per week, to be determined by the District's Board of Directors, or as modified by the General Manager, based on the District's then existing water supply conditions. The irrigation day limitation and schedule will be as posted by the District. This provision does not apply to landscape irrigation zones that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating 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. The District reserves the right to amend the watering day limits within each prescribed stage as determined by conservation necessity.
2. **Obligation to Fix Leaks, Breaks, or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within five (5) days after written notification by the District unless other arrangements are made with the District.

**Section 7:      Stage 2 Water Supply Shortage - (15%-25% Reduction of Water Use)**

A. A Stage 2 Water Supply Shortage exists when the District, through its Board of Directors, determines that due to drought, a water supply shortage, or threatened water shortage exists and reduced customer usage is necessary to make more efficient use of water and appropriately respond to existing water conditions and a 15% - 25% reduction of water use will be required to lower overall water demands. Percentage will be determined by action of the District's Board of Directors and be publically announced in accordance with Section 9, below.

B. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section 4 and 5, the following additional water conservation requirements apply during a declared Stage 2 Water Supply Shortage:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water will be limited to a maximum of three (3) days per week on a schedule established and posted by the District. This provision does not apply to landscape irrigation zones that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating 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. **Obligation to Fix Leaks, Breaks, or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within seventy-two (72) hours after written notification by the District unless other arrangements are made with the District.
3. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of water constituting more than one foot of depth and initial filling of, residential swimming pools or outdoor spas with potable water is prohibited.

**Section 8:      Stage 3 Water Supply Shortage - Emergency Condition (25% - 35% Reduction of Water Use)**

- A. Stage 3 Water Supply Shortage condition exists when the District, through its Board of Directors, determines that due to drought, a water supply shortage, or threatened water shortage exists and reduced customer usage is necessary to make more efficient use of water and appropriately respond to existing water conditions and a 25% - 35% reduction of water use will be required to lower overall water demands. Percentage will be determined by action of the District's Board of Directors and be publically announced in accordance with Section 10, below.
- B. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Sections 4, 5, and 6, the following water conservation requirements apply during a declared Stage 3 Water Supply Shortage:
1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape, or other vegetated area with potable water is limited to a maximum of two (2) days per week on a schedule established and posted by the District. This provision does not apply to landscape irrigation zones that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating 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. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within forty eight (48) hours after written notification by the District unless other arrangements are made with the District
  3. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling ornamental lakes or ponds is prohibited, 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 supply shortage level under this ordinance.

**Section 9:      Stage 4 Water Supply Shortage - Emergency Conditions (35% - 50% Reduction of Water Use)**

- A. Stage 4, also referred to as an "Emergency" condition exists when the District, through its Board of Directors, declares a water shortage emergency and notifies its residents and businesses that a 35-50% reduction of water use is necessary to maintain sufficient water supplies for public health and safety. Percentage will be determined by action of the District's Board of Directors and be publically announced in accordance with Section 10, below.
1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to a maximum of one (1) day per week on a schedule established and posted by the District. This provision does not apply to landscape irrigation zones that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating 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. This restriction does not apply to the following categories of use:
- i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;
  - ii. Maintenance of existing landscape necessary for fire protection; iii. Maintenance of existing landscape for soil erosion control;
  - iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;
  - v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, and school grounds, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Section 6(8)(1) and time restrictions in Section 5(8)(1);and
  - vi. Actively irrigated environmental mitigation projects.

**Section 10:      Procedures for Determination /Notification of Water Supply Shortage**

- A. **Declaration and Notification of Water Supply Shortage:** The existence of Stage 1, Stage 2, Stage 3, or Stage 4 Water Supply Shortage conditions may be declared by resolution and adopted at a regular or special Board meeting held by the District in accordance with State law. The mandatory conservation requirements applicable to Stage 1, Stage 2, Stage 3, or Stage 4

conditions will take effect on the tenth day after the date the Stage level is declared. Within five (5) days following the declaration of the shortage level, the District must publish a copy of the resolution in a newspaper used for publication of official notices.

**Section 11:    Hardship Waiver**

- A. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this Ordinance would result in undue hardship to a District customer, the customer may apply for a waiver to the requirements as provided in this section.
- B. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a customer.
- C. **Application:** Application for a waiver must be on a form prescribed by the District.
- D. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
- E. **Required Findings for Waiver:** An application for a waiver will be denied unless the District's Board of Directors finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, that because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents or businesses.
- F. **Approval Authority:** 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, the waiver will apply to the subject property during the period of the mandatory water supply shortage condition.

**Section 12:    Penalties and Violations**

- A. **Violations:** Violations of this ordinance may be considered an unauthorized use of water and subject to penalties established in the District's Rules and Regulations, Article 4.05.02.03 and/ or Article 4.03.07.06.
- B. **Penalties:** Penalties for failure to comply with any provisions of the ordinance are as follows:
  - 1. **First Violation:** The District will issue a written notice of non-compliance and deliver a copy of this ordinance by certified mail.
  - 2. **Second Violation:** For a second violation within the preceding twelve (12) calendar months, the District will issue a final written notice of non-compliance.
  - 3. **Third and Subsequent Violations:** A third violation, and any subsequent violation, within the preceding twelve (12) calendar months may be considered an unauthorized use of water and subject to penalties established in Article 4.05.02.03 and/or Article 4.03.07.06 of the District's Rules and Regulations
  - 4. **Water Flow Restrictor:** In addition to any fines, the District may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inches in size and comparatively sized restrictors for larger services after providing written notice to the customer of intent to install a flow restrictor for a minimum of forty-eight (48) hours prior to such installation.
- C. **Cost of Flow Restrictor and Disconnecting Service:** A person or entity that violates 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. The charge for installing and/or removing any flow restricting device and disconnection service must be paid to the District before water supply is returned. Nonpayment will be subject to the same remedies as nonpayment of basic water rate established in the District's Rules and Regulations.
- D. **Separate Offenses:** Each day that a violation of this ordinance occurs is a separate offense.
- E. **Notice and Hearing:** The District will issue a Notice of Violation by certified mail or personal delivery at least ten (10) days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation 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. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the District will send by certified mail a written notice of the hearing date to the customer at least ten (10) days before the date of the hearing. 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 as appropriate to the nature and extent of the violations and the current declared water Level condition.

- F. **Reporting Mechanism - Hotline:** The District has established a water waste hotline (909) 348-8228 and an online report form on the District's website (www.wvwd.com) for customers to report water waste violations detailed in this Ordinance.

**Section 13: Severability:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance and those shall remain in full force and effect.

**Section 14: Effective Date:**

- A. This Ordinance shall become effective as of the date of adoption and the entire Ordinance shall be published once in a newspaper of general circulation in Walnut Valley Water District within 10 days of passage, pursuant to Water Code Section 376 and Government Code Section 606.1.

Ayes: Directors Ebenkamp, Hilden, Kwong and Wu

Noes: None

Abstain: None

Absent: Director Lee

/s/Scarlett Kwong

President

ATTEST:

/s/Michael Holmes

Secretary