

ORDINANCE NO. 48

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE CARLSBAD MUNICIPAL WATER DISTRICT, CARLSBAD, CALIFORNIA, MIRRORING THE SAN DIEGO COUNTY WATER AUTHORITY'S 2020 MODEL DROUGHT ORDINANCE AND ESTABLISHING SIX WATER SHORTAGE LEVELS

WHEREAS, article 10, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water saving devices, provide an effective and immediately available means of conserving water; and

WHEREAS, California Water Code section 375 et seq. authorizes water suppliers to adopt and enforce a comprehensive water conservation program; and

WHEREAS, adoption and enforcement of a comprehensive water conservation program will allow the Carlsbad Municipal Water District (CMWD) to delay or avoid implementing measures such as water rationing or more restrictive water use regulations pursuant to a declared water shortage emergency as authorized by California Water Code section 350 et seq.; and

WHEREAS, San Diego County is a semi-arid region and local water resources are scarce. The region is dependent upon imported water supplies provided by the San Diego County Water Authority ("Water Authority"), which obtains a substantial portion of its supplies from the Metropolitan Water District of Southern California. Given the region's dependence on imported water supplies, weather and other conditions in other portions of this State, and given that the conditions throughout the Southwestern United States affect the availability of water for use in San Diego County; and

WHEREAS, the Water Authority has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of the Water Authority's programs to provide a reliable supply of water to meet the needs of the Water Authority's 24-member public agencies, including the CMWD. The Water Authority's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Water Authority's Urban Water Management Plan; and

WHEREAS, as anticipated by its Urban Water Management Plan, the Water Authority, in cooperation and consultation with its member public agencies, has adopted a Water Shortage Contingency Plan, which establishes a progressive program for responding to water supply limitations resulting from drought conditions. This ordinance is intended to be consistent with and to implement the Water Authority's Water Shortage Contingency Plan; and

WHEREAS, the Water Authority recently updated its Water Shortage Contingency Plan that contains six stages containing regional actions to be taken to lessen or avoid supply shortages. This ordinance contains drought response levels that correspond with the Water Shortage Contingency Plan; and

WHEREAS, the CMWD, due to the geographic and climatic conditions within its territory and its dependence upon water imported and provided by the Water Authority, may experience shortages due to drought conditions, regulatory restrictions enacted upon imported supplies, and other factors. CMWD's Board of Directors has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of its programs to provide a reliable supply of water to meet the needs of the public within its service territory. The CMWD's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Urban Water Management Plan adopted by the CMWD Board of Directors; and

WHEREAS the water conservation measures and progressive restrictions on water use and method of use identified by this ordinance provide certainty to water users and enable CMWD to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public; and

WHEREAS this ordinance is intended to be consistent with the CMWD's Water Shortage Contingency Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Carlsbad Municipal Water District of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. The Board of Directors of the Carlsbad Municipal Water District of the City of Carlsbad, California, hereby ordains as follows:

SECTION 1.0 DECLARATION OF NECESSITY AND INTENT

(a) This ordinance establishes water management requirements necessary to accomplish the following:

1. conserve water;
2. enable effective water supply planning;
3. assure reasonable and beneficial use of water;
4. prevent waste of water;
5. prevent unreasonable use of water;
6. prevent unreasonable method of use of water within the CMWD in order to assure adequate supplies of water to meet the needs of the public; and
7. further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.

(b) This ordinance establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes six levels of drought response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies.

(c) Level 1 condition drought response measures are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded, in part by, CMWD.

(d) During drought response condition Levels 2 through 6, all conservation measures and water-use restrictions are mandatory and become increasingly restrictive to attain escalating conservation goals.

(e) During a drought response condition Level 2 or higher, the water conservation measures and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in this ordinance as provided in CMWD's Municipal Code.

SECTION 2.0 DEFINITIONS

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

1. "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.

2. "Water Authority" or "CWA" means the San Diego County Water Authority.
3. "WSCP" means the Water Authority's Water Shortage Contingency Plan or CMWD's Water Shortage Contingency Plan, as specified, in existence on the effective date of this ordinance and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage of allocate supplies during shortages.
4. "Metropolitan" or "MWD" means the Metropolitan Water District of Southern California.
5. "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 CMWD.
6. "District" or "CMWD" means the Carlsbad Municipal Water District.

SECTION 3.0 WATER WASTE PROHIBITIONS

The following water conservation measures will be in effect at all times:

1. 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.
2. 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.
3. 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.
4. Use re-circulated water to operate ornamental fountains.
5. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.
6. Serve and refill water in restaurants, bars, and other food service establishments only upon request.
7. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.

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

SECTION 4.0 APPLICATION

- (a) The provisions of this ordinance apply to any person in the use of any water provided by the CMWD.
- (b) This ordinance 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. Please refer to the City of Carlsbad or the Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.
- (c) Nothing in this ordinance is intended to affect or limit the ability of the CMWD to declare and respond to an emergency, including an emergency that affects the ability of the CMWD to supply water.
- (d) The provisions of this ordinance do not apply to use of water from private wells or to recycled water.
- (e) Nothing in this ordinance shall apply to use of water that is subject to a special supply program, such as the Water Authority's Special Agricultural Water Rate Program. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the CMWD is subject to this ordinance in the use of the other water.

SECTION 5.0 AUTHORIZATION

The CMWD General Manager, or a designated representative, is hereby authorized and directed to implement the provisions of this ordinance.

SECTION 6.0 DROUGHT RESPONSE LEVEL 1

(a) A Drought Response Level 1 applies when the Water Authority notifies its member agencies, or the Executive Manager upon recommendation of the General Manager otherwise declare, 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 have sufficient supplies available to meet anticipated demands. The Executive Manager, upon recommendation of the General Manager, shall declare the existence of a Drought Response Level 1 and take action to implement the Level 1 conservation practices identified in this ordinance.

(b) During a Drought Response Level 1 condition, CMWD will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. The same water conservation practices become mandatory if CMWD declares a Level 2 Drought Condition:

1. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Watering is permitted at any time when a drip/micro-irrigation system equipment is used
2. 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 is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

3. Repair all water leaks within five (5) days of notification by the CMWD unless other written arrangements are made with the General Manager or designee.

(c) During a Drought Response Level 2 condition or higher, all persons shall be required to implement the conservation practices established in a Drought Response Level 1 condition.

SECTION 7.0 DROUGHT RESPONSE LEVEL 2

(a) A Drought Response Level 2 applies when the Water Authority notifies its member agencies, or the CMWD Board of Directors otherwise declare, that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The CMWD Board of Directors shall declare the existence of a Drought Response Level 2 condition and implement the mandatory Level 2 conservation measures identified in this ordinance.

(b) All persons using CMWD water shall comply with Level 1 water conservation practices during a Drought Response Level 2 condition, and shall also comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) assigned days per week on a schedule established by the General Manager and posted by the CMWD. This section shall not apply to commercial growers and nurseries.
2. Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10) 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 stream rotor sprinklers.
3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 7(b)(2), on the same schedule set forth in section 7(b)(1) by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.
4. Repair all leaks within seventy-two (72) hours of notification by the CMWD unless other written arrangements are made with the General Manager or designee.
5. Stop operating ornamental fountains or similar decorative water features unless re-circulated water is used.

SECTION 8.0 DROUGHT RESPONSE LEVEL 3

(a) A Drought Response Level 3 condition applies when the Water Authority notifies its member agencies, or the CMWD Board of Directors otherwise declare, that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 30 percent is required in order to have sufficient supplies available to meet anticipated demands. The CMWD Board of Directors shall declare the existence of a Drought Response Level 3 condition and implement the Level 3 conservation measures identified in this ordinance.

(b) All persons using CMWD water shall comply with Level 1, and Level 2 water conservation practices during a Drought Response Level 3 condition and shall also comply with the following additional mandatory conservation measures:

1. 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 CMWD. This section shall not apply to commercial growers or nurseries.
2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 7(b)(2), on the same schedule set forth in section 7(b)(1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.
4. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems.
5. Repair all leaks within forty-eight (48) hours of notification by the CMWD unless other written arrangements are made with the General Manager or designee.

(c) Upon the declaration of a Drought Response Level 3 condition, the CMWD will suspend consideration of annexations to its service area.

(d) The CMWD Board of Directors may establish a water allocation for property served by the CMWD using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the CMWD Board of Directors 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 CMWD 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 CMWD Board of Directors, any person that uses water in excess of the allocation shall be subject to a penalty in the amount equal to the penalty rate established by the Metropolitan Water District of Southern California 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 ordinance.

SECTION 9.0 DROUGHT RESPONSE LEVEL 4

(a) A Drought Response Level 4 condition applies when the Water Authority notifies its member agencies, or the CMWD Board of Directors otherwise declare, that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The CMWD Board of Directors shall declare the existence of a Drought Response Level 4 condition and implement the Level 4 conservation measures identified in this ordinance.

(b) All persons using CMWD water shall comply with Level 1, Level 2, and Level 3 water conservation practices during a Drought Response Level 4 condition and shall also comply with the following additional mandatory conservation measures:

1. 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 ordinance.

SECTION 10.0 DROUGHT RESPONSE LEVEL 5

(a) A Drought Response Level 5 condition applies when the Water Authority notifies its member agencies, or the CMWD Board of Directors otherwise declare, that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 50 percent is required in order to have sufficient supplies available to meet anticipated demands. The CMWD Board of Directors shall declare the existence of a Drought Response Level 5 condition and implement the Level 5 conservation measures identified in this ordinance.

(b) All persons using CMWD water shall comply with conservation measures required during Level 1, Level 2, Level 3, and Level 4 conditions and shall also comply with the following additional mandatory conservation measures:

1. 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 CMWD has determined that recycled water is available and may be lawfully applied to the use.

A. Maintenance of trees and shrubs that are watered on the same schedule set forth in section 8(b)(1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. 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;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the wellbeing of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, schools' grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed 2 days per week according to the schedule established under section 8(b)(1)

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within 24 hours of notification by the CMWD unless other arrangements are made with the General Manager or designee.

(c) The CMWD Board of Directors may establish a water allocation for property served by the CMWD. If the CMWD Board of Directors 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 CMWD 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 CMWD Board of Directors, any person that uses water in excess of the allocation shall be subject to a penalty in the amount equal to the penalty rate established by the Metropolitan Water District of Southern California 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 ordinance.

(d) Upon the declaration of a Drought Response Level 5 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to service or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project;
2. The project is necessary to protect the public's health, safety, and welfare; or
3. 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 CMWD.

Nothing in this Section 10 shall be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

SECTION 11.0 DROUGHT RESPONSE LEVEL 6

(a) A Drought Response Level 6 condition applies when the Water Authority, or the CMWD Board of Directors, declares a water shortage emergency pursuant to California Water Code Section 350 and that Level 6 requires a demand reduction of more than 50 percent in order for the CMWD to have maximum supplies available to meet anticipated demands. The CMWD shall declare the existence of a Drought Emergency in the manner and on the grounds provided in California Water Code Section 350.

(b) All persons using CMWD water shall comply with conservation measures required during Level 1, Level 2, Level 3, Level 4, and Level 5 conditions and shall also comply with the following additional mandatory conservation measures:

1. 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 CMWD has determined that recycled water is available and may be lawfully applied to the use.
 - A. 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;
 - B. Maintenance of existing landscaping for erosion control;
 - C. Maintenance of plant materials identified to be rare or essential to the well-being of rare animals;
 - D. Watering of livestock; and
 - E. Public works projects and actively irrigated environmental mitigation projects.

SECTION 12.0 CORRELATION BETWEEN WATER SHORTAGE CONTINGENCY PLAN AND DROUGHT RESPONSE LEVELS

(a) The correlation between the Water Authority's WSCP shortage levels and the CMWD's drought response levels identified in this ordinance is described in this Section. Under WSCP Shortage Level 1, the CMWD would implement Drought Response Level 1 actions. Under WSCP Shortage Level 2, the CMWD would implement Drought Response Level 1 and Level 2 actions. Under WSCP Shortage Level 3, the CMWD would implement Drought Response Level 1, Level 2, and Level 3 actions. Under WSCP Shortage Level 4, the CMWD would implement Drought Response Level 1, Level 2, Level 3, and Level 4 actions. Under WSCP Shortage Level 5, the CMWD would implement Drought Response Level 1, Level 2, Level 3, Level 4, and Level 5 actions. Under WSCP Shortage Level 6, the CMWD would implement Drought Response Level 1, Level 2, Level 3, Level 4, Level 5, and Level 6 actions.

(b) The drought response levels identified in this ordinance correspond with the Water Authority WSCP as identified in the following table:

Drought Ordinance Response/WSCP Shortage Levels	Use Restrictions	Conservation Target
1	Voluntary	Up to 10%
2	Mandatory	Up to 20%
3	Mandatory	Up to 30%
4	Mandatory	Up to 40%
5	Mandatory	Up to 50%
6	Mandatory	Above 50%

SECTION 13.0 PROCEDURES FOR DETERMINATION AND NOTIFICATION OF EACH DROUGHT RESPONSE LEVEL

(a) The existence of a Drought Response Level 1 may be declared by the Executive 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 Secretary of the CMWD and provided to the CMWD Board of Directors. The CMWD 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 CMWD. The CMWD may also post notice of the condition on their website.

(b) The existence of Drought Response Level 2, Level 3, Level 4, or Level 5 conditions may be declared by resolution of the CMWD Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Drought Response Level 2, Level 3, Level 4, or Level 5 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the CMWD shall publish a copy of the resolution in a newspaper of general circulation used for publication of official notices. If the CMWD 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 CMWD customarily mails the billing statement for fees or charges for on-going water

service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(c) The existence of a Drought Response Level 6 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 6 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the CMWD shall publish a copy of the resolution in a newspaper of general circulation used for publication of official notices.

(d) The CMWD 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.

SECTION 14.0 HARDSHIP VARIANCE

(a) If, due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a person using agency water or to property upon which agency water is used, that is disproportionate to the impacts to CMWD water users generally or to similar property or classes of water uses, then the person may apply for a variance to the requirements as provided in this section.

(b) The variance may be granted, or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using agency water or to property upon which agency water is used, that is disproportionate to the impacts to CMWD water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property. Hardship variances shall also be subject to the following requirements:

1. Application. Application for a variance shall be on a form prescribed by the CMWD General Manager and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the CMWD Board of Directors.

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

3. Required Findings for Variance. An application for a variance shall be denied unless the General Manager finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the CMWD, all of the following:

A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other CMWD customers.

B. That because of special circumstances applicable to the person, property or its use, the strict application of this ordinance would have a disproportionate impact on the person, property or use that exceeds the impacts to customers generally.

C. That the authorizing of such variance will not be of substantial detriment to adjacent properties and will not materially affect the ability of the CMWD to effectuate the purpose of this chapter and will not be detrimental to the public interest.

D. That the condition or situation of the subject person, property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.

4. Approval Authority. The General Manager or designee shall exercise approval authority and act upon any completed application no later than 10 days after submittal. The General Manager or designee may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of the action taken in response to the application. Unless otherwise specified at the time a variance is approved, the variance applies to the subject property during the term of the mandatory drought response level.

5. Appeals to CMWD Executive Manager or designee(s). An applicant may appeal a decision or condition of the General Manager on a variance application to the CMWD Executive Manager or designee(s). An appeal requesting a hearing may only be filed within 10 days of the General Manager's written decision. The request shall state the grounds for the appeal. At the appeal hearing, the CMWD Executive Manager or designee(s), shall act as the approval authority and review the appeal de novo by applying the regular variance requirements described in Section 14(a) and (b)(1)-(4). The decision of the CMWD Executive Manager or designee(s) is final.

SECTION 15.0 VIOLATIONS AND PENALTIES

(a) Any person, who uses, causes to be used, or permits the use of water in violation of this ordinance is guilty of an offense punishable as provided in this Section.

(b) Each day that a violation of this ordinance occurs is a separate offense.

(c) Administrative fines may be levied for each violation of a provision of this ordinance as follows:

1. For the first violation by any customer of any of the provisions of this ordinance the CMWD shall verbally notice the fact of such violation to the customer.

2. For a second violation by any customer of any of the provisions of this ordinance the CMWD shall issue a written notice of the fact of such violation to the customer.

3. For a third violation by a customer of any provision of this ordinance the CMWD may install a flow-restricting device of one gallon per minute (1 GPM) capacity for services of up to one and one-half inch (1-1/2") size. CMWD may also install a restricting device of comparatively sized restrictors for larger services upon a prior determination that the customer has repeatedly violated the provisions of this ordinance regarding the conservation of water and that such action is reasonably necessary to assure compliance with this ordinance regarding the conservation of water. In addition, the CMWD may levy an administrative fine of one hundred dollars for a third violation of this ordinance.

4. Two hundred dollars for a fourth violation of any provision of this ordinance within one year.

5. Five hundred dollars for each additional violation of this ordinance within one year.

(d) If determined by the CMWD's General Counsel to be necessary and appropriate, in lieu of administrative remedies above, each violation of this 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 \$1,000, or by both as provided in Water Code section 377.

(e) Willful violations of the mandatory conservation measures and water use restrictions as set forth in Section 11.0 and applicable during a Drought Response Level 6 condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code section 356.

(f) All remedies provided for in this Section shall be cumulative and not exclusive.

(g) Any customer against whom a penalty is levied pursuant to this section shall have the right to appeal as follows:

1. The request must be in writing and received by the General Manager within ten (10) calendar days of the postmark mailing of the notice of the action to the customer. Any determination not timely appealed shall be final. The written request shall include:

- A. a description of the issue,
- B. evidence supporting the claim, and
- C. a request for resolution of the dispute.

The General Manager will review the material submitted and make an independent determination of the issue, which shall be mailed out within fifteen (15) calendar days of receipt of the appeal.

2. The General Manager's determination may be appealed in writing within ten (10) calendar days of the postmark mailing of the notice of determination to the Board of Directors of the CMWD by filing with the Secretary of the CMWD a written notice of such appeal. The Secretary shall set the matter for a hearing before the Board of Directors at an upcoming Board meeting. Notice of the hearing shall be mailed out to the person appealing the decision at least ten (10) calendar days before the date of the appeal hearing. The Board may, in its discretion, affirm, reverse or modify the determination.

3. Fees for filing an appeal under this section shall be established by a resolution of the Board of Directors of the CMWD.

EFFECTIVE DATE: This ordinance shall be effective upon its adoption. The Secretary shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the General Counsel to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption. The Secretary shall also post a certified copy of the adopted ordinance at the CMWD, the Faraday Center, and City Hall.

INTRODUCED AND FIRST READ at a Special Meeting of the Carlsbad Municipal Water District Board of Directors on the 24th day of May, 2022, and thereafter

PASSED, APPROVED AND ADOPTED at a Special Meeting of the Carlsbad Municipal Water District Board of Directors on the 7th day of June, 2022, by the following vote, to wit:

AYES: Hall, Blackburn, Bhat-Patel, Acosta, Norby.

NAYS: None.

ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

Cindie K. McMahon, asst
CELIA A. BREWER, General Counsel *city*
attys
for

Matt Hall
MATT HALL, President

KM *for*
FAVIOLA MEDINA, Secretary
(SEAL)

