

# **Water Conservation Ordinance 2018-01**

**Approved May 23<sup>rd</sup>, 2018**

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# **Water Conservation Ordinance 2018-01**

An ordinance of the Redway Community Services District establishing a customer water conservation and supply shortage program.

## **Section 1 Recitals**

WHEREAS, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the State of California , it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic\* (for RCSD purposes domestic means human consumption, sanitation, and fire protection are our highest priority) use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code section 71610.5, the District may undertake a water conservation program to reduce water use and may require, as a condition of new service, that reasonable water-saving devices and water reclamation devices be installed to reduce water use; and

WHEREAS, pursuant to California Water Code section 71640, the District may restrict the use of District water during any emergency caused by drought, or other threatened or existing water shortage, and may prohibit the wastage of District water or the use of District water during such periods for any purpose other than household uses or such other restricted uses as the District determines to be necessary. The District may also prohibit use of District water during such periods for specific uses which it finds to be nonessential. Pursuant to Water Code section 71641, the District may prescribe and define by ordinance the restrictions, prohibitions, and exclusions referred to in section 71640; and

WHEREAS, pursuant to California Water Code section 375, the Board of Directors is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by Persons within its jurisdiction for the purpose of conserving the water supplies of the District; and

WHEREAS, the Redway Community Services District (RCSD) provides water to residential and commercial users within the District's boundaries. The District is located just off Highway 101 about 65 miles south of Eureka in Humboldt County. The District serves a total population of about 1,250 people. The District's peak summer demand is estimated to be 0.345 million gallons per day (gpd). The District's main source of water is through a constructed infiltration gallery located on the South Fork Eel River. Redway is situated on the hillside above the Eel River; therefore the water must be pumped up from the treatment plant into the storage tanks; and

WHEREAS, many water providers in California base their supply estimates on reservoir levels. RCSD currently experiences water source deficiencies due to river conditions during peak water demand times with summer season drought conditions, and during extended periods of extreme turbidity during winter storm events. Transmission capacity problems following natural disasters can also occur. The three worst case water supply shortage conditions for the District are:

1.) Water treatment system unable to process water

2.) Water transmission and distribution system failed due to infrastructure failure, flooding, earthquake or other natural disaster or

3) River flows fall to a point where withdrawals are inadequate to meet demand due to technical or regulatory requirements.

Water conservation and supply shortage response measures including rationing programs are needed to ensure that water demand falls to serviceable levels.

WHEREAS, because of these water supply shortage conditions regularly encountered by the District, prevailing dry conditions in the State, the current statewide drought, dwindling storage, the increasing uncertainty of water supplies, and the declared policy of the State that the District manage its water resources for the general welfare to ensure their beneficial use to the fullest extent of which they are capable, the District hereby finds and determines that it is necessary and appropriate for the District to adopt, implement, and enforce a water conservation and supply shortage program (“Program”) to reduce the quantity of water used by consumers within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, pursuant to California Water Code section 350, the Board of Directors is authorized to declare a Water Shortage Emergency to prevail within its jurisdiction when it finds and determines that the District will not be able to or cannot satisfy the ordinary demands and requirements of water consumers without the threat of depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, and fire protection, and as more fully set forth in this ordinance; and

WHEREAS, the Board of Directors hereby finds and determines that in the event the District determines that it is necessary to declare that a Water Shortage Emergency exists, the District will be authorized pursuant to this ordinance to implement supply shortage response measures and a water conservation and regulatory program to regulate water consumption activities within the District and ensure that the water delivered in the District is put to beneficial use for the greatest public benefit, with particular regard to domestic use, including human consumption, sanitation, and fire protection, and that the waste or unreasonable use of water is prevented; and

WHEREAS, the Board of Directors is authorized and hereby finds and determines that it is necessary to prescribe and define by ordinance restrictions, prohibitions, and exclusions for the use of water during a threatened or existing water shortage and adopt and enforce the Program to: (i) prohibit the waste of District water or the use of District water during such period; (ii) prohibit use of water during such periods for specific uses which the District may from time to time find nonessential; and (iii) reduce and restrict the quantity of water used by those Persons within the District for the purpose of conserving the water supplies of the District; and

WHEREAS, the Board of Directors hereby finds and determines that the District shall adopt, implement, and enforce the Program which (i) implements water conservation and supply shortage response measures; (ii) regulates the water consumption activities of Persons within the District for the purposes of conserving and protecting the District’s water supplies, reducing the quantity of water consumed, and deterring and preventing the waste or unreasonable use or unreasonable method of use of valuable water resources; and (iii) establishes and collects regulatory fees and imposes fines and penalties as set forth herein to accomplish these purposes and recover the costs of the Program; and

WHEREAS, the Board of Directors hereby finds and determines that it is desirable to adopt the Program in order to codify the rules and regulations governing its actions, and the actions of Persons using and

consuming water within the District, during periods of both normal District capacity to supply water as well as during declared water shortages and water shortage emergencies, to protect the general welfare and the District's water supplies, and to reduce water consumption all in accordance with the declared policies and laws of the State; and

WHEREAS, the Board of Directors hereby further finds and determines that this ordinance and the Program set forth herein are in the public interest and serve the public purposes of the District.

**BE IT ORDAINED** by the Board of Directors of the RCSD as follows:

The Board of Directors hereby finds and determines that the above recitals are true and correct and incorporated herein.

## **Section 2 Findings and Intent**

### **2.1 Purpose and Scope of Program**

The Board of Directors finds and determines that because of the prevailing conditions in the State stated in the Recitals, it is necessary and appropriate for the District to adopt, implement, and enforce this Program to reduce the quantity of water used by Persons within the District to ensure that there is sufficient water at all times for human consumption, sanitation, and fire protection. The District further finds and determines that during periods of drought, water shortages, and water shortage emergencies, the general welfare requires that the District maximize the beneficial use of its available water resources to the extent that it is capable, and that the waste or unreasonable use, or unreasonable method of use of water shall be prevented and the conservation of water is to be extended with the view to the reasonable and beneficial use thereof in the interests of the people of the District and for the public health, safety, and welfare.

### **2.2 Emergency Action Stages and Trigger Levels**

Many water providers in California base their supply estimates on reservoir levels. Under these conditions conservation is important on a year round basis. Conservation during the rainy season will result in additional water available during the drier parts of the year.

However, Redway's river source of supply is dynamic and seasonal. During the rainy season supply is plentiful – even during relatively dry years. Conservation during these periods does not result in additional resource available in the drier parts of the year. During the drier parts of the year water withdrawals from the river system can be in direct competition with other ecological demands – consequently adequate supply can be limited even in relatively wet years. RCSD regularly experiences late summer drought conditions even in “normal” years.

The following action stages and trigger levels have been developed to implement this plan. These stages are intended to serve as guidelines. However, unforeseeable circumstances may occur. The General Manager or his/her designee shall have the authority, under the applicable law and District policy, to take any and all action which may be necessary in the event of an immediate emergency and/or Water Shortage Emergency as defined in the applicable law and District policy. For example, and not by way of limitation, an immediate emergency may require the General Manager or his/her designee to take action prior to obtaining any required approval of the Board, which approval shall be sought as soon as practicable and in accordance with any applicable requirements under the law or District policy.

The General Manager, or Operations Manager with the ratification of the General Manager, will determine the action stage. All such determinations shall be subject to ratification by the Board of Directors. All restrictions under each applicable action stage shall be implemented immediately upon declaration of such stage. The General Manager, based upon current conditions affecting the water supply, will determine lifting of an emergency action stage and resumption to the previous operating stage.

## **Section 3 Program Adoption**

### **3.1 Water Conservation Program**

This establishes water conservation and supply shortage response measures and regulations to be implemented during declared water conservation stages.

### **3.2 This ordinance establishes four (4) water supply shortage stages**

This ordinance establishes four (4) water supply shortage stages and related water conservation and supply shortage response measures to be implemented by the District. Each stage provides for increasing restrictions on water use, and administrative fines and/or penalties for water waste in response to decreasing water supplies and worsening drought or other water shortage conditions.

### **3.3 Supply Shortage Causes**

The water supply shortage stages may be caused by, but are not limited to, any or all of the following circumstances or events:

#### **3.3.1 Water supply shortage**

District, regional or statewide water supply shortage exists and a public outreach campaign is being implemented asking or requiring Persons to reduce water use.

#### **3.3.2 Infrastructure inadequacy**

Delivery or treatment infrastructure such as storage reservoirs, pipes, pumps, filtration devices or groundwater wells are inadequate, inoperable or unusable (such as by power outages, mechanical failure, or contamination).

#### **3.3.3 Infrastructure capacity limits**

A water supply shortage exists due to the fact that the District water distribution and/or treatment facilities have reached capacity;

#### **3.3.4 Alternative supply limitations**

Alternative water supplies are limited or unavailable.

#### **3.3.5 Groundwater limitations**

Groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, or some other regulatory body.

### **3.3.6 Infrastructure failure**

A major failure, whether temporary or permanent, in the water distribution and/or treatment system of the District.

## **Section 4 Purpose and scope**

### **4.1 Purpose**

The purposes of the water conservation and supply shortage response provisions of this ordinance and Program are to assure the highest beneficial use of District water supplies and to provide sufficient water supplies to meet the basic needs of human consumption, sanitation, and fire protection within the District's direct retail service area.

### **4.2 Non-interference with the use of property**

This ordinance is not intended to repeal, abrogate, annul, impair or in any way interfere with the free use of property by covenant, deed, or other private agreement or with restrictive covenants running with the land to which the District provides water services.

### **4.3 Application**

The provisions of this ordinance shall apply to all Persons within the District's direct retail service area and all property served in a retail capacity by the District wherever situated.

### **4.4 District ability to respond to emergency**

Nothing in this ordinance is intended to affect or limit the ability of the District to respond to an emergency, including an emergency that affects the ability of the District to supply water.

## **Section 5 Water Conservation and Unreasonable Uses of Water.**

### **5.1 Unreasonable Uses Of Water**

It is unlawful at any time for any Person to make, cause, or use or permit the use of water from the District for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this ordinance, or in an amount in excess of that use permitted by the water conservation stages which are in effect pursuant to this ordinance or by action taken by the Board of Directors in accordance with this ordinance.

The following water conservation and supply shortage response measures to prevent unreasonable uses of water set forth below shall be in effect at all times. It is unlawful at any time for any Person to waste water or to use it unreasonably. Unreasonable uses of water shall include, but are not limited to, the following practices:

1. Allowing water to leave the Person's property by drainage onto adjacent properties or public or private roadways or streets due to excessive irrigation and/or uncorrected leaks;

2. Failing to repair a water leak;
3. All open hoses shall be equipped with automatic, positive shut-off nozzles.
4. All swimming pools, spas, ponds, and fountains shall be equipped with re-circulating pumps.
5. All plumbing leaks, improperly adjusted sprinklers, or other water conduits/fixtures that require repair or adjustment shall be corrected to the satisfaction of the District within 96 hours of notification by the District. The District will attempt to contact customers by phone, mail or printed “door-hanger” to alert of a required repair or adjustment. All customers shall ensure that the District has current telephone contact information.
6. No Person shall use water to wash down automobiles, trucks, trailers, boats, and other types of mobile equipment, sidewalks, driveways, parking areas, tennis courts, patios, or other paved or hard surface areas, except to alleviate immediate fire or sanitation hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a shut-off nozzle or a low volume, high-pressure cleaning machine. Washing may be done at any time on the immediate premises of a commercial car wash or commercial service station.
7. Landscape watering systems for new construction and remodeling shall be consist of drip irrigation with automatic irrigation timers which are capable of being adjusted according to changing weather patterns and landscape requirements.
8. Installation of appliances and fixtures within new construction and remodeled residential, commercial or industrial structures shall be “low-flow”, consistent with all UBC and County Codes, and shall be designed to minimize water use;

## **5.2 Water Supply Shortage Stage Declaration**

### **5.2.1 Water Supply Shortage Determination**

A water supply shortage stage may be initially determined by the General Manager subject to ratification by the Board of Directors, but shall be finally determined by the Board of Directors in accordance with the provisions of this ordinance and this Program. A water supply shortage stage shall remain in full force and effect until otherwise determined or discontinued by resolution of the Board of Directors declaring that existing water supply conditions and the supply of water available for distribution within the District’s service area has been replenished or augmented to the extent that such water supply shortage stage is no longer necessary.

### **5.2.2 Water Shortage Emergency**

The District may declare a Water Shortage Emergency pursuant to Water Code section 350 during any water supply shortage stage.

### **5.2.3 Mandatory Response Measures Subject to Penalties**

During Water Supply Shortage Stages Two (2) through Four (4), each of the water conservation and supply shortage response measures are mandatory and violations are subject to criminal, civil, and administrative penalties and mandatory compliance remedies as specified in this ordinance and by State law. Water conservation and supply shortage response measures in effect during Stage One (1) are voluntary.

## **5.3 Encouraged Practices**

1. The installation of supplemental household water storage to be filled during wet months for garden or emergency use during the dry season. Supplemental water storage shall not be connected to potable household water lines.

2. Industrial and commercial accounts to minimize water use during summer regulations season.

## **Section 6 Water Conservation Stage One– Seasonal Water Supply**

Many water providers in California base their supply estimates on reservoir levels. Under these conditions conservation is important on a year round basis. Conservation during the rainy season will result in additional water available during the drier parts of the year.

However, Redway’s river source of supply is dynamic and seasonal. During the rainy season water supply is plentiful, even during relatively dry years. Conservation during these periods does not result in additional water supply available in the drier parts of the year. During the drier parts of the year water withdrawals from the river system can be in direct competition with other ecological demands – consequently adequate water supply to District customers during summer months can be limited even in relatively wet years. RCSD regularly experiences late summer drought conditions even in “normal” water supply years.

### **6.1 Summer Conservation Declaration**

Summer Conservation Restrictions for Water Conservation Stage One (1) may be initiated by the District Board of Directors in mid to late spring depending on water supply availability and river flow levels in the South Fork of the Eel River.

**A declaration of Water Conservation Stage One (1) may be caused by, but is not limited to, any or all of the following circumstances or events:**

- 1) A regional water supply shortage exists and a public outreach campaign is being implemented asking or requiring all Persons to reduce water use;
- 2) Delivery infrastructure such as storage reservoirs, pipes, pumps, filtration devices or groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- 3) Declaration of mandatory water conservation measures by an authority other than the District, such as the California State Water Resources Control Board (SWRCB);
- 4) River flows fall below 25 cfs (at Miranda gauge); (located at the Hooker Creek turnoff or x miles downstream from RCSD Service area.) the trader offices are there....
- 5) When the District’s system delivery pumps are required to operate more than 18 hours in one 24 hour period to provide sufficient water supply to District customers; and
- 6) Current river flows are below 50% of median flows as measured by USGS at the Miranda gauge..

### **6.2 Stage I Summer Conservation Restrictions**

**Summer restrictions may be in effect from June 1 until Oct 15.**

1. No pools or storage tanks shall be filled. All pools and storage tanks must be filled between January 1 and May 31st.
2. Industrial accounts are restricted to 3000 cubic feet per month.

**Recommended Voluntary Restrictions:**

- 1) Landscape watering is allowed only between the hours of 6pm .and 10:00am.;
- 2) Restrict outdoor water usage to an ‘Odd / Even’ water conservation plan. Under this plan odd numbered homes are asked to restrict their outside water usage to Wednesday and Sunday. Even numbered homes are asked to water outdoors only on Tuesday and Saturday; Businesses are asked to water on Monday and Thursday. Water each area only for 10 minutes.
- 3) Refrain from allowing water to run off any lawns, landscape, or garden into adjoining streets, gutters, sidewalks, parking lot or alley;
- 4) Refrain from hosing or washing sidewalks, walkways, driveways, parking lots or other hard surfaced areas;
- 5) Refrain from washing cars, boats, trailers, or other vehicles except at commercial car wash where water is recycled;
- 6) Equip any hose with a quick acting shut-off nozzle;
- 7) Promptly repair all leaks in plumbing fixtures, water lines, and sprinkler systems;
- 8) Equip ornamental fountains, ponds or lakes with a water recycling system;
- 9) Nurseries must use basins under watered inventory to catch excess water;
- 10) Commercial accounts requested to voluntarily limit use to 2500 cubic feet per month in light of the mandatory Industrial restriction of 3000 cubic feet per month.

### 6.3 Summer Conservation Objectives

The objective of the measures undertaken in Water Conservation Stage Two is to voluntarily reduce water system consumption within the District by 25% relative the same month in 2014.

## Section 7 Water Conservation Stage Two – Mandatory Conservation Declaration

### 7.1 Mandatory Conservation Declaration

Water Conservation Stage Two is also referred to as a “Mandatory Conservation Declaration” and applies during periods when a reasonable probability exists that the District will not be able to meet all of the water demands of its Customers.

**Water Conservation Stage Two may be caused by, but is not limited to, any or all of the following circumstances or events:**

- 1) A regional water supply shortage exists and a public outreach campaign is being implemented asking or requiring all Persons to reduce water use;
- 2) Delivery infrastructure such as storage reservoirs, pipes, pumps, filtration devices or groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- 3) Declaration of mandatory water conservation measures by an authority other than the District, such as the California State Water Resources Control Board (SWRCB)
- 4) River flows fall below 20 cfs (at Miranda gauge)
- 5) When system delivery pumps are required to operate more than 18 hours for three consecutive days in order to meet demand..

## **7.2 Current river flows are below 50% of median flows as measured by USGS at the Miranda gauge..Mandatory Conservation Restrictions:**

Except as otherwise provided in this Section 7, all water conservation and supply shortage response measures of Water Conservation Stage One shall be in full force and effect during Water Conservation Stage Two. In addition Voluntary elements from Stage One become Mandatory. Upon declaration of a Water Conservation Stage Two by the Board of Directors or the General Manager, implementation by the District and publication of notice, the following water conservation and supply shortage response measures shall apply:

- 1) Landscape watering is allowed only between the hours of 6pm .and 10:00am.;
- 2) Restrict outdoor water usage to an ‘Odd Even’ water conservation plan. Under this plan odd numbered homes are asked to restrict their outside water usage to Wednesday and Sunday. Even numbered homes are asked to water outdoors only on Tuesday and Saturday; Businesses are asked to water on Monday and Thursday. Water each area only for 10 minutes.
- 3) Refrain from allowing water to run off any lawns, landscape, or garden into adjoining streets, gutters, sidewalks, parking lot or alley;
- 4) Refrain from hosing or washing sidewalks, walkways, driveways, parking lots or other hard surfaced areas;
- 5) Refrain from washing cars, boats, trailers, or other vehicles except at commercial car wash where water is recycled;
- 6) Equip any hose with a quick acting shut-off nozzle;
- 7) Promptly repair all leaks in plumbing fixtures, water lines, and sprinkler systems;
- 8) Equip ornamental fountains, ponds or lakes with a water recycling system;
- 9) Nurseries must use basins under watered inventory to catch excess water;
- 10) Hotels and motels shall provide a notice of water emergency in each room.
- 11) Restaurants shall refrain from serving drinking water except upon specific request by a customer;
- 12) Industrial accounts shall be limited to water usage of 2500 cubic feet per month;

## **7.3 Mandatory Conservation Objectives:**

The objective of the measures undertaken in Water Conservation Stage Two is to reduce water system consumption within the District by 25% relative to 2014 usage by month

## **7.4 Health and Safety exemptions**

Health and Safety exemptions may be granted by RCSD General Manager pursuant to the process described in Section 18 of this Ordinance.

## **Section 8 Water Conservation Stage Three - Water Shortage Emergency**

### **8.1 Water Shortage Emergency Declaration**

Water Conservation Stage Three is also referred to as a “Water Shortage Emergency” and applies during periods when the District will not be able to meet all of the water demands of its Customers.

**Water Conservation Stage Three may be caused by, but is not limited to, any or all of the following circumstances or events:**

- 1) A regional or statewide water supply shortage exists and a public outreach campaign is being implemented asking or requiring all Persons to reduce water use;
- 2) Delivery infrastructure such as storage reservoirs, pipes, pumps, filtration devices or groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- 3) Groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, Riverside County, or some other regulatory body.
- 4) Declaration of mandatory water conservation measures by an authority other than the District, such as the California State Water Resources Control Board (SWRCB)
- 5) River flow below 10 cfs at Miranda gauge:
- 6) Water Supply is insufficient to fill main tank overnight.

## **8.2 Water Shortage Emergency Restrictions**

Except as otherwise provided in this Section 8, all water conservation and supply shortage response measures of Water Conservation Stages One, and Two shall be in full force and effect during Water Conservation Stage Three. Upon declaration of a Water Conservation Stage Three by Board of Directors or the General Manager, implementation by the District and publication of notice, the following water conservation and supply shortage response measures shall apply:

- 1) Industrial and Commercial accounts are limited to 400 gallons per day (approx. 1600 cubic feet per month).
- 2) Residential accounts are limited to 60 gallons per resident per day (approx. 240 cubic feet per month each (per resident)).
- 3) Provided the Board of Directors has declared a Water Shortage Emergency pursuant to California Government Code sections 350 et seq., no new construction meters will be issued. Construction water shall not be used for earth work, road construction purposes, dust control, compaction, or trench jetting.
- 4) Provided the Board of Directors has declared a Water Shortage Emergency pursuant to California Water Code sections 350 et seq., the District shall not allow any new connections to the water system during Stage Three. The existence and application of any such new connection moratorium or other similar restrictions shall be determined by separate action by the Board of Directors.

## **8.3 Water Shortage Emergency Objectives**

The objective of the measures undertaken in Water Conservation Stage Three is Maximum Conservation. Priorities for all water use will be for human consumption, sanitation and fire protection.

## **8.4 Health and Safety exemptions**

Health and Safety exemptions may be granted by RCSD General Manager pursuant to the process described in Section 18 of this Ordinance.

## Section 9 Water Conservation Stage Four – Dire Water Shortage

### 9.1 Dire Water Shortage Declaration

Water Conservation Stage Four is also referred to as a “Dire Water Shortage” and applies during periods when the District will not be able to meet all of the water demands of its Customers.

**Water Conservation Stage Four may be caused by, but is not limited to, any or all of the following circumstances or events:**

- 1) A regional or statewide water supply shortage exists and a regional public outreach campaign is being implemented asking or requiring all Persons to reduce water use;
- 2) Delivery infrastructure such as storage reservoirs, pipes, pumps, filtration devices or groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- 3) Groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, or some other regulatory body; and
- 4) A major failure of any supply or distribution facility, whether temporary or permanent, occurs in the water distribution system and the District cannot meet all of the water demands of its Customers.
- 5) Declaration of mandatory water conservation measures by an authority other than the District, such as the California State Water Resources Control Board (SWRCB)
- 6) Major natural or system disaster.
- 7) Water supply is insufficient to produce clean water or fill tank to 80% full overnight.

### 9.2 Dire Water Shortage Restrictions

Except as otherwise provided in this Section 9, all water conservation and supply shortage response measures of Water Conservation Stages One, Two and Three shall be in full force and effect during Water Conservation Stage Four. Upon declaration of a Water Conservation Stage Four by the Board of Directors or the General Manager, implementation by the District and publication of notice, the following water conservation and supply shortage response measures shall apply:

**The following water uses will be prohibited:**

- 1) Landscape irrigation or watering of lawns or gardens;
- 2) Washing of cars, boats, trailers or other vehicles;
- 3) Filling of swimming pools, spas, hot tubs or water tanks;
- 4) Serving of drinking water at restaurants unless requested;
- 5) Filling or operating ornamental fountains, ponds or lakes;
- 6) Sewer system maintenance, fire protection training or flushing of hydrants;
- 7) Street cleaning or dust control;
- 8) Water for nonessential use or for commercial or industrial processes.

- 9) Use of hydrants for anything other than firefighting.
- 10) Provided the Board of Directors has declared a Water Shortage Emergency pursuant to California Water Code sections 350 et seq., the District shall not allow any new connections to the water system during Stage Four. The existence and application of any such new connection moratorium or other similar restrictions shall be determined by separate action by the Board of Directors.

### **9.3 Dire Water Shortage Objectives**

The objective of the measures undertaken in Water Conservation Stage Four is reduction of use to absolute minimums for human survival and safety. Water use will be limited to volumes required for human consumption, sanitation and fire protection.

### **9.4 Health and Safety exemptions**

Health and Safety exemptions may be granted by RCSD General Manager pursuant to the process described in Section 15 of this Ordinance.

## **Section 10 Violations and remedies**

### **10.1 Criminal Violation.**

It shall be unlawful for any Person to willfully violate the provisions of this ordinance. Any violation of the provisions of this ordinance shall be a misdemeanor, unless made an infraction by the prosecutor, subject to imprisonment in the county jail for not more than thirty (30) days or by fine not to exceed \$1,000, or by both as provided in California Water Code section 377.

### **10.2 Cease and Desist Order.**

The General Manager may issue a cease and desist order directing the Property Owner, or occupant, or other Person in charge of day-to-day operations of any property, and/or any other Person responsible for a violation of this ordinance to: (1) immediately discontinue any prohibited use of water pursuant to this ordinance; (2) immediately cease any activity not in compliance with the terms, conditions, and requirements of this ordinance.

### **10.3 Civil Action.**

In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by the District. In any such action, the District may seek, and the court may grant, as appropriate, any or all of the following remedies:

- (1) A temporary and/or permanent injunction;
- (2) Assessment of the violator for the costs of any investigation which led to the establishment of the violation and for the reasonable costs of preparing and bringing legal action under this ordinance;
- (3) Any other costs incurred in enforcing the provisions of this ordinance; and
- (4) Assessments under this subsection shall be paid to the District to be used exclusively for costs associated with implementing or enforcing the water conservation and regulatory provisions of this ordinance.

## **10.4 Notice of Violation and Compliance Order**

In addition to any other remedies provided in this ordinance, any violation of this ordinance may be subject to the issuance by the District of a Notice of Violation and Compliance Order pursuant to the provisions of Section 14 of this Ordinance.

## **10.5 Notice of Penalty**

In addition to any other remedies provided in this ordinance, any violation of this ordinance may result in the imposition of an administrative penalty pursuant to the provisions of Section 15 of this Ordinance.

## **10.6 Cumulative.**

All remedies provided herein shall be cumulative and not exclusive.

## **10.7 On-going.**

A Person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this ordinance is committed, continued, or permitted.

## **Section 11 Notice of Violation and Compliance Order**

### **11.1 Notice of Violation and Compliance Service**

Any Notice of Violation and Compliance Order, Cease and Desist Order, and/or Notice of Penalty shall be served pursuant to the requirements of this ordinance and shall:

- (1) Identify the provision(s) of this ordinance and any State law, if applicable, alleged to have been violated; and
- (2) State that continued noncompliance may result in civil, criminal, or administrative enforcement and compliance actions against the Person who committed the violation, or the Property Owner and/or occupant of the property where the violation occurred; and
- (3) State a compliance date that must be met by the Person who committed the violation, or the Property Owner and/or occupant of the property where the violation occurred; and
- (4) Order remediation work, where applicable, that must be taken by the Property Owner and/or occupant of the property; and
- (5) State that the recipient has a right to appeal the matter as set forth in this ordinance; and
- (6) Include the address of the affected property and be addressed to the Property Owner as shown on the most recently issued equalized assessment roll or as may otherwise appear in the current records of the District. If the order applies to a responsible party who is not the Property Owner, or if the event is not related to a specific property, the notice may be sent to the last known address of the responsible party; and
- (7) Be deemed served ten (10) business days after posting on the property, if the Property Owner or occupant of the affected property cannot be located after the reasonable efforts of the General Manager.

## **11.2 Notice of Violation and Compliance by Mail**

Any Notice of Violation and Compliance Order, Cease and Desist Order, and/or Notice of Penalty may be sent by regular mail. Service by regular mail is effective on the date of mailing.

## **11.3 Notice of Violation and Compliance Terms and Conditions**

Any Notice of Violation and Compliance Order may include, where deemed applicable by the General Manager, the following terms and conditions:

- (1) Specific steps or actions and time schedules for compliance as reasonably necessary to prevent future violations of this ordinance; and
- (2) Specific steps or actions and time schedules for compliance as necessary to prevent further violations; and
- (3) Any other terms, conditions, or requirements reasonably calculated to prevent continued or threatened future violations of this ordinance, including, but not limited to, discontinuing or limiting water service with the installation of a flow restricting device.

## **11.4 For a First Violation**

In addition to or in conjunction with the Notice of Violation, for a first violation of any provision of this ordinance, within two (2) weeks of the violation:

- (1) The District may provide notice to the Property Owner or occupant of the property where the violation occurred to advise such Person of:
  - (a) The water conservation stage then in effect and the provisions of this ordinance relating thereto;
  - (b) Water conservation and supply shortage response measures that are required and may be implemented pursuant to this ordinance;
  - (c) Possible consequences and actions which may be taken by the District for future violations of this ordinance, including discontinuance of water service;
  - (d) Penalties that may be imposed for the specific violation and any future violations of this ordinance.

## **11.5 For a Second Violation**

Second Notice: In addition to or in conjunction with the Notice of Violation, for a second or any subsequent violation of this ordinance, within two (2) weeks of the initial violation:

- (1) The District may provide notice to the property where the violation occurred of:
  - (a) The water conservation stage then in effect and the provisions of this ordinance relating thereto;
  - (b) The water conservation and supply shortage response measures that are required and may be implemented by such Person; and
  - (c) Possible consequences which may occur in the event of any future violations of this ordinance;
- (2) Installation of a flow-restricting device: if the General Manager deems it to be appropriate, the District may order the installation of a flow-restricting device on the service line for any Person who commits a second violation of any term or provision of this ordinance;
- (3) Discontinue water service: if the General Manager deems it to be appropriate, the District may discontinue water service at the location where the multiple violations have occurred.

## 11.6 Special Meter Readings

Special meter reading: The District may, after one (1) written notice of violation, order that a special meter reading or readings be made in order to ascertain whether wasteful or unreasonable use of water is occurring. The District may impose a meter reading fee for each meter reading it conducts pursuant to this ordinance. The District may bill a reasonable amount for the staff time needed.

## Section 12 Notice of Penalties

### 12.1 Notice of Penalties

Separate from, in addition to, or in combination with a Notice of Violation, Cease and Desist order, the General Manager may issue a Notice of Penalties against the Property Owner and/or occupant of the property where a violation of this ordinance occurred and/or any other Person responsible for a violation of this ordinance who violates any provision of this ordinance. Issuance of a notice of violation or a cease and desist order is not a prerequisite to the issuance of a Notice of Penalties. The Notice of Penalties shall allege the act(s) or failure(s) to act that constitute violations of this ordinance and shall set forth the following monetary penalties for each violation as follows.

#### 12.1.1 For the first violation

For the first violation during any water conservation stage by any Person of any provision of this ordinance the District may issue a written notice to the Person which sets forth the facts surrounding the violation and additional information such as the required compliance and potential penalties for noncompliance;

#### 12.1.2 For a second violation

For a second violation during any water conservation stage by any Person of any provision of this ordinance within the preceding twelve (12) calendar months,

- During Water Conservation Stage 2 upon any violation by any Industrial account of any of the provisions of this ordinance the District may impose a monetary penalty on that Person in the amount of one hundred dollars (\$100.00) per day for each day a Person violates any provision of this ordinance.
- During Water Conservation Stages 3 and 4 the District may impose a monetary penalty in the amount of two hundred dollars (\$200.00) per day for each day a Person violates any provision of this ordinance.

#### 12.1.3 For a third violation

For a third violation:

- During Water Conservation Stage 2 a violation by any Industrial account who violated any of the provisions of this ordinance within the preceding twelve (12) calendar months the District may impose a monetary penalty in the amount of two hundred dollars (\$200.00) per day for each day a Person violates any provision of this ordinance.
- During Water Conservation Stages 3 and 4 the District may impose a monetary penalty in the amount of four hundred dollars (\$400.00) per day for each day a Person who has violated any provision of this ordinance twice before in the preceding 12 months.

#### 12.1.4 For a fourth and any subsequent violation

For a *fourth and any subsequent violation*, the District may install a flow restricting device of two and one-half gallons per minute (2.5 GPM) capacity for services up to one and one-half inch (1-1/2") size and comparatively sized restrictions for larger services or terminate a Person's service in

accordance with the District's applicable rules and regulations, in addition to the fines and penalties specified in Section 12 of this Ordinance.

### **12.1.5 Restoration of Restricted or Terminated Service**

Any such restricted or terminated service may be restored in accordance with the District's applicable rules and regulations and only upon a showing that the Person is in compliance with this ordinance. Prior to any restoration of service, the customer shall pay all District charges for any restriction or termination of service and its restoration as provided for in the District rules governing water service, including but not limited to payment of all past due bills and fines and any other amounts which may be due and owing under this ordinance.

### **12.2 Collection Through Water Bill**

The amount of any penalties imposed pursuant to this Section 12 may be collected by including said amount on the customer's water bill.

### **12.3 Collection Through Lien**

The amount of any penalties imposed pursuant to this Section 12 which have remained delinquent for a period of sixty (60) calendar days shall constitute a lien against the real property of the Person violating this ordinance. The lien provided herein shall have no force and effect until recorded with the Humboldt County Recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for ten (10) years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the California Code of Civil Procedure.

### **12.4 Collection Through Property Tax Roll**

The amount of any penalties imposed pursuant to Section 12 may be collected by including said amount on the customer's water bill. The amount of any penalties imposed which have remained delinquent for a period of sixty (60) calendar days shall constitute a lien against the real property of the Person violating this ordinance. The lien provided herein shall have no force and effect until recorded with the Humboldt County Recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for ten (10) years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the California Code of Civil Procedure.

The amount of any fines, penalties and costs imposed pursuant to this ordinance may be collected on the tax roll in the same manner as property taxes at the option of the Board of Directors. The General Manager shall prepare and file with the Board of Directors a report that describes each affected parcel of real property and the amount of penalties, charges, costs and delinquencies for each affected parcel for the year. The General Manager shall give notice of the filing of the report and the time and place for public hearing by publishing the notice pursuant to Section 6066 in a newspaper of general circulation, and by mailing the notice to the owner of each affected parcel. At the public hearing the Board of Directors shall hear and consider any objections or protests to the report. At the conclusion of the public hearing the Board of Directors may adopt or revise the charges and penalties. The Board of Directors shall make its determination on each affected parcel and its determination shall be final.

On or before August 10 of each year following these determinations, the General Manager shall file with the County Auditor a copy of the final report adopted by the Board of Directors. The County Auditor

shall enter the amount of the penalties, fines, charges and costs against each of the affected parcels of real property as they appear on the current Real Property Tax Assessment Roll. The County Tax Collector shall include the amount of the charges and penalties on the tax bills for each affected parcel of real property and charges and costs in the same manner as property taxes pursuant to the provisions of Government Code section 61115(b).

All monies collected under this Section 12 shall be deposited in a special account of the District and shall be made available for implementation and enforcement of this ordinance.

The District may, at its option, elect to petition the Superior Court to confirm any order establishing administrative penalties and enter judgment in conformity therewith in accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.

### **Section 13 Recovery of costs**

(A) The General Manager shall serve an invoice for costs upon the Property Owner and/or occupant of any property, or any other responsible Person who is subject to a notice of violation, a cease and desist order, or an administrative compliance order. An invoice for costs shall be immediately due and payable to the District. If any Property Owner or Person in charge of day-to-day operations, Customer, or responsible party, or any other Person fails to either pay the invoice for costs or appeal successfully the invoice for costs in accordance with this ordinance, then the District may institute collection proceedings. The invoice for costs may include reasonable attorneys' fees.

(B) The District shall impose any other penalties or regulatory fees, as fixed from time to time by the Board of Directors, for a violation or enforcement of this ordinance.

(C) In order to recover the costs of the water conservation regulatory program set forth in this ordinance, the Board of Directors may, from time to time, fix and impose fees and charges. The District fees and charges may include, but are not limited to fees and charges for:

- (1) Any visits of an Enforcement Officer or other District staff for time incurred for meter reading, follow-up visits, or the installation or removal of a flow-restricting device;
- (2) Monitoring, inspection, and surveillance procedures pertaining to enforcement of this ordinance;
- (3) Enforcing compliance with any term or provision of this ordinance;
- (4) Re-initiating service at a property where service has been discontinued pursuant to this ordinance;
- (5) Processing any fees necessary to carry out the provisions of this ordinance.

### **Section 14 Appeals**

Any Person subject to a notice of violation, cease and desist order, or administrative compliance order may file an appeal of such order or notice with the Board of Directors within fifteen (15) calendar days of the date of service of the order or notice. The Board of Directors shall hold a hearing to consider the appeal at the next available District meeting. A notice of the hearing shall be mailed to the Appellant at least ten (10) calendar days before the date fixed for the hearing. The Board of Directors shall review the appeal de novo. The determination of the Board of Directors shall be conclusive and shall constitute a final order. Notice of the determination by the Board of Directors shall be mailed to the Appellant within

ten (10) calendar days of such determination and shall indicate whether the appeal has been granted in whole or in part and set forth the terms and conditions of the decision, if any. If the appeal is denied, the Appellant shall comply with all terms and conditions of the order or notice.

## **Section 15 Relief from Compliance**

Relief from compliance regarding the regulations and restrictions on water use set forth in this ordinance may be granted by the District subsequent to written application for relief.

### **15.1 Written Applications for Relief**

Written applications for Relief shall be accepted, and may be granted or denied, by the General Manager, at his or her sole discretion, or by his or her designee at his or her sole discretion. The application shall be in a form prescribed by the District and shall be accompanied by a non-refundable processing fee in an amount of \$50 for the purpose of defraying the costs incidental to the proceedings.

### **15.2 Grounds for Relief**

The grounds for granting or conditionally granting Relief are:

- (1) Due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a Person using District water or to property upon which District water is used, that is disproportionate to the impacts to other District water users generally or to similar property or classes of water users; or
- (2) Failure to grant Relief would adversely affect the health, sanitation, fire protection, or safety of the applicant or the public.

### **15.3 Substantiating Documents**

The application for Relief shall be accompanied, as appropriate, with photographs, maps, drawings, and other information substantiating the applicant's request, including a statement of the applicant.

### **15.4 Criteria for Relief**

An application for Relief shall be denied unless the Approving Authority finds, based on the information provided in the application, supporting documentation, or such other additional information as may be requested, and on water use information for the property as shown by the records of the District, all of the following:

- (1) That the Relief does not constitute a grant of special privilege inconsistent with the limitations upon other District Customers.
- (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: (a) the property or use that exceeds Customers generally; or (b) the applicant's health that exceeds Customers generally.
- (3) That the authorization of such Relief will not be of substantial detriment to adjacent properties, will not materially affect the ability of the District to effectuate the purposes of this ordinance, and will not be detrimental to the public interest.

(4) That the condition or situation of: (a) the subject property or the intended use of the property for which the Relief is sought is not common, recurrent, or general in nature; or (b) the applicant's health or safety is not common, recurrent, or general in nature.

## **15.5 Denial or Grant of Relief**

The denial or grant of a Relief shall be acted upon within thirty (30) business days of the submittal of the complete application, including any photographs, maps, drawings, and other information substantiating the applicant's request and the statement of the applicant. The application may be approved, conditionally approved, or denied. The decision of the Approving Authority shall be prepared in writing, include terms and conditions, if any, and promptly sent to the applicant.

## **15.6 Appeal of Denial of Relief**

The denial of a request for Relief may be appealed in writing to the General Manager. An appeal shall be made in accordance with the following procedures:

(1) The Appellant shall complete and submit in writing a form provided by the District for such purpose and shall state in such form the grounds for his or her appeal. All appeals shall be submitted to the District Secretary within thirty (30) calendar days of the date of the notice of the denial of the request for Relief.

(2) The General Manager shall review the appeal and any related information provided, and, if necessary, cause an investigation and report to be made concerning the request for Relief. The General Manager shall have fifteen (15) calendar days from the submission of the appeal to render a decision on whether to grant the appeal and mail notice thereof to the Appellant. If the General Manager grants the appeal and determines that the request for Relief shall be granted, then within fifteen (15) calendar days of such determination the General Manager shall give written notice thereof to the Appellant.

(3) The decision of the General Manager may be appealed by the Appellant to the Board of Directors. Such appeal must be submitted in writing and received by the District office within seven (7) calendar days of the date of decision of the General Manager. The Board of Directors shall conduct a hearing on such appeal at its next regularly scheduled Board of Directors meeting; provided, however, the Board of Directors shall have received the notice of appeal at least seven (7) calendar days prior to such meeting. If the appeal is not submitted within at least seven (7) calendar days prior to a regularly scheduled Board of Directors meeting, then the hearing shall be held at the following regularly scheduled meeting of the Board of Directors. A notice of the hearing shall be mailed to the Appellant at least five (5) calendar days before the date fixed for the hearing. The Board of Directors shall review the appeal de novo. The determination of the Board of Directors shall be conclusive and shall constitute a final order. Notice of the determination by the Board of Directors shall be mailed to the Appellant within ten (10) calendar days of such determination and shall indicate whether the appeal has been granted in whole or in part and set forth the terms and conditions of the Relief, if any, granted to the Appellant. If the appeal is denied, the Appellant shall comply with all terms and conditions of this ordinance and the applicable water conservation stage then in effect.

(4) Until the conclusion of the appeal process, all provisions and decisions under appeal shall remain in full force and effect until the conclusion of the appeal process.