

ORDINANCE NO. 323

AN ORDINANCE REPEALING ORDINANCE NOS. 242 AND 244, ESTABLISHING A WATER CONSERVATION PROGRAM AND A PROGRAM FOR MANAGEMENT OF THE WATER SUPPLIES OF THE DISTRICT DURING ANY WATER SHORTAGE CONDITION DECLARED BY THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT AND ESTABLISHING REGULATIONS AND RESTRICTIONS ON THE DELIVERY AND CONSUMPTION OF WATER AND PENALTIES FOR ORDINANCE VIOLATIONS DURING A DECLARED WATER SHORTAGE CONDITION

BE IT ORDAINED by the Board of Directors of the Dublin San Ramon Services District ("Board"), a public agency located in the counties of Alameda and Contra Costa, California, as follows:

SECTION 1: FINDINGS AND DETERMINATIONS.

- a) Pursuant to the Agreement dated August 23, 1994, as amended, by and between Zone 7 of the Alameda County Flood Control and Water Conservation District ("Zone 7") and the Dublin San Ramon Services District ("District"), District currently acquires from Zone 7 most potable water required for District purposes and for resale and distribution to the customers and users of District's water system.
- b) Zone 7 obtains the majority of the water delivered to District from the State Water Project (SWP), owned and operated by the California Department of Water Resources (DWR), which delivers water to Zone 7 by way of the Banks Pumping Plant located in and pumping from the Delta formed by the Sacramento and San Joaquin Rivers ("Delta"), the South Bay Aqueduct, and related facilities.
- c) Progressive water conservation practices by District water customers and users are important to ensure that water is put to reasonable and beneficial use and to minimize the impact that DWR's diversion of water from the Delta has on the environment.
- d) California periodically experiences consecutive years of below normal precipitation, which can result in reduced deliveries of SWP water by DWR to Zone 7.
- e) Environmental issues also can affect the ability of DWR to deliver the amount of SWP water to which Zone 7 is contractually entitled.
- f) During any extended period of reduced deliveries of SWP water from DWR, and depending upon the availability of other supplies of water, Zone 7 may not be able to deliver adequate supplies of potable water to District to meet the ordinary demands and requirements of District's water customers and users without

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reducing the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, fire protection, and other beneficial uses.

- g) During such events the District may be unable to obtain additional potable water supplies from other sources, as allowed under the terms of the District Agreement with Zone 7, sufficient to make up the shortage in potable water supply from Zone 7 to meet the ordinary demands and requirements of District's water customers and users.
- h) At any time, a natural or man-made event may adversely affect some or all of the DWR, Zone 7, or District water system in such a way that District may not be able to deliver adequate potable water to meet the ordinary demands and requirements of District's water customers and users without reducing the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, fire protection, and other beneficial uses.
- i) The Board hereby finds, determines and declares that the rules, regulations and restrictions set forth in this Ordinance concerning the delivery of water and water consumption by District's water customers and users during any period in which the Board has declared a Water Shortage Condition to exist are intended to conserve the water supply of District for the greatest public benefit, with particular regard to municipal and domestic use, sanitation, fire protection, and protection of the environment.
- j) The Board hereby finds, determines and declares that the water conservation provisions of this Ordinance are appropriate and in accordance with best water management practices, and said provisions are hereby adopted and shall be enforced during any Water Shortage Condition declared by the Board pursuant to the provisions of Article X, Section 2 of the California Constitution, California Water Code sections 375 - 378, the authority granted to this Board by the Community Services District Law (California Government Code sec. 61000 *et seq.*), and the common law.
- k) The Board hereby finds, determines and declares that those specific uses of water supplied by the District that are expressly prohibited or restricted by the provisions of this Ordinance are non-essential, and if allowed to occur during a declared Water Shortage Condition would constitute a waste and an unreasonable use of water.
- l) The actions taken in considering, adopting, implementing, and enforcing this Ordinance are exempt from the provisions of the California Environmental Quality Act (Public Resources Code sec. 21000 *et seq.*) pursuant to Title 14, California Code of Regulations, Section 15269, as specific actions necessary to prevent or mitigate an emergency.

- m) On June 2, 2009, following notice duly given and published, a public hearing was held by this Board at which all District water customers and users had an opportunity to be heard on this Ordinance, to protest against the adoption of this Ordinance, and to present their respective needs to the Board, and the Board has heard and given due consideration to all comments and protests received prior to and during said hearing.

SECTION 2: WATER CONSERVATION PROGRAM. The District shall establish, by separate resolution, and maintain a "Water Conservation Program" for use and implementation at all times, including but not limited to, during any declared Water Shortage Condition. Said Water Conservation Program shall be adopted and periodically reviewed and updated by action of the Board, and shall include best management and conservation practices for Normal Supply conditions, public education and information elements, and other components deemed necessary and appropriate. Said Water Conservation Program shall also include conservation practices, water use restrictions, enforcement measures, and penalty provisions that may be imposed during any Water Shortage Condition declared by the Board.

SECTION 3: NORMAL SUPPLY. Normal Supply conditions are hereby defined as those years in which District water supplies are adequate or more than adequate to meet the ordinary demands and requirements of District's water customers and users for that year and for a reasonable planning time horizon. Based upon the findings and determinations set forth in Section 1 of this Ordinance, the Board hereby declares that best water management and conservation practices identified in the Water Conservation Program shall be encouraged and should be implemented by District's water customers and users during Normal Supply conditions.

SECTION 4: WATER SHORTAGE CONDITION. A Water Shortage Condition is hereby defined as a year or years in which the supply of potable water available to District for distribution and sale to water customers and users may not be adequate to meet ordinary water demands without reducing the supply to the extent that there would be insufficient water for human consumption, sanitation, fire protection, and other beneficial uses. Notification to the Board of a possible water supply shortage may be made by, but is not restricted to, DWR, Zone 7, or District's General Manager. After determining that a water supply shortage exists, the Board shall consider a resolution to declare a Water Shortage Condition, after notice is duly given and a public hearing held at which all District water customers and users have an opportunity to be heard on the question, to protest against the adoption of the resolution, and to present their respective needs to the Board.

Conditions: Any declaration of a Water Shortage Condition shall include a determination and declaration of the Stage of the Water Shortage Condition (as such Stages are defined in this Ordinance), the anticipated duration of the Water Shortage Condition, the target water use reduction, the conservation practices and water use restrictions contained in the Water Conservation Program that shall be implemented,

if any, and the enforcement actions and penalties, if any, being imposed as provided for in this Ordinance.

Water Supply Shortage Rates: The Board, by separate resolution adopted after the appropriate notice is duly given, may from time to time establish water rates for each Stage of the Water Shortage Condition to be applicable for the duration of the Stage, and to go into effect on the date said Stage is declared by the Board or on any subsequent date established by the Board.

Fines: The Board, by separate resolution adopted after the appropriate notice is given, may from time to time establish a progressive schedule of fines to be levied against District water customers and users for successive violations of water use restrictions established in Stage 3 and Stage 4 as set forth in this Ordinance. Written notice of any fine that is to be levied by the District on a specific District water customer or user shall be given at the time the violation is identified by District. The fine shall be assessed on the District's next regular water bill.

SECTION 5: STAGES OF WATER SHORTAGE CONDITION. During any Water Shortage Condition declared by the Board pursuant to this Ordinance, water use restrictions, rates, enforcement actions and penalties shall be implemented in Stages, as follows, pursuant to actions taken by District's Board by separate resolution after the appropriate notice is given:

Stage 1 – Minimal Reduction: Stage 1 may be declared by District's Board when there are identifiable events that lead to a reasonable probability that in the next few years, District potable water supplies will not be adequate to meet the ordinary demands and requirements of the District's water customers and users. Stage 1 is voluntary and best water management and conservation practices included in the Water Conservation Program shall be encouraged by District and should be implemented by District's water customers and users.

Stage 2 – Moderate Reduction: Stage 2 may be declared by District's Board when there are identifiable events that lead to a reasonable conclusion that in the current or upcoming year, District potable water supplies may not be adequate for the ordinary demands and requirements of District water customers and users. If the Board declares Stage 2, additional voluntary best water management and conservation practices included in the Water Conservation Program shall be encouraged by District. The Board may declare Stage 2 to be mandatory and if so shall identify water use restrictions included in the Water Conservation Program that are required to be adhered to by the District water customers and users.

During the duration of Stage 2 and if Stage 2 is initially declared to be voluntary, the Board may, by separate resolution adopted after the appropriate notice is duly given, declare that Stage 2 is being made mandatory. Said declaration can only be made if verifiable water use data clearly establish that the target water use reduction by District water customers and users is not being achieved. Said declaration shall

identify those additional water use restrictions included within the Water Conservation Program that are required to be implemented and met by District water customers and users.

Stage 3 – Severe Reduction: Stage 3 may be declared by District’s Board when there are identifiable events that lead to a reasonable conclusion that in the current year water supplies will not be adequate to meet the ordinary demands and requirements of District water customers and users. Stage 3 shall be mandatory. The Board shall identify the specific additional water use restrictions included in the Water Conservation Program that are required to be implemented and met by District water customers and users. Fines that may be levied by District for successive violations of water use restrictions during Stage 3 shall be included within the resolution by which the Board declares Stage 3.

Stage 4 – Critical Reduction: Stage 4 may be declared by District’s Board, after Stage 3 has been in effect, and if verifiable water use data conclusively establish that District water customers and users are not achieving the target water use reduction previously adopted by the Board; or if new identifiable events occur that require increasing the target water use reduction; or if the Board determines that there are multiple District water customers and users who are repeatedly violating the Stage 3 water use restrictions. Under Stage 4, the District may establish a specific water use allocation for any or all District water customers and users. If a water allocation is established for a District water customer or user, upon clear evidence of violation or violations of such an allocation the District may levy fines; install a flow restrictor or restrictors in the water service line; lock out the water service if a health and safety requirement is not being met or if violation of such a requirement appears to be imminent; or enter non-residential private premises to install sub-meters for monitoring compliance with the provisions of this Ordinance and/or the Water Conservation Program.

SECTION 6: WATER EMERGENCY. A Water Emergency results from an event that causes a disruption in the water supply to all or a group of District water customers and users. The General Manager is hereby authorized to declare a Water Emergency and, if so declared, shall initiate implementation of the appropriate provisions of the District’s Emergency Response Plan. As soon as possible after such a declaration, the General Manager shall make a full report on the Water Emergency to the Board. During a Water Emergency, the General Manager and his/her designees may take all steps necessary to protect and preserve District’s water system, and to protect the health and safety of District water customers and users, including but not limited to locking out non-essential water services, obtaining and making available temporary water supplies, and temporarily relocating District water customers and users.

SECTION 7: TAMPERING AND INTERFERENCE. It shall be unlawful and a violation of this Ordinance for any person to tamper with, alter, destroy, or otherwise render inoperative any flow restricting device, service valve, meter, hydrant, or any other water system facility, equipment or device installed, operated or maintained by District.

It shall be unlawful and a violation of this Ordinance for any person to interfere with, harass, intimidate, or otherwise obstruct any employee, officer or agent of District in lawfully carrying out any duty under, or performing any act pursuant to this Ordinance.

SECTION 8: COST RECOVERY. The actual cost, as determined by the General Manager, for installation of flow restricting devices, for effecting lockout and reestablishment of service and for installation of sub-meters shall be recoverable from the specific water customer or user of the District water system or person found by General Manager to be in violation of the provisions of this ordinance. Prior to taking any of the actions authorized by this Section, the water customer or user shall be given reasonable notice by the District of the schedule for and the nature of the action(s) that may be taken, and of the District's authority to recover the actual cost of the action(s).

SECTION 9: IMPLEMENTATION. The General Manager shall be responsible for implementing and carrying out the Water Conservation Program and the Stage requirements and restrictions established and imposed from time to time by the Board. The General Manager shall provide reports to the Board on the Water Conservation Program at least annually or at such shorter intervals as he or she deems to be appropriate.

SECTION 10: REPEALING OF ORDINANCE NOS. 242 AND 244. Ordinance No. 242, which was adopted by the Board on June 4, 1991, is hereby repealed and shall be of no further force and effect upon the adoption of this Ordinance. Ordinance No. 244, which was adopted by the Board on November 5, 1991, is hereby repealed and shall be of no further force and effect upon the adoption of this Ordinance.

SECTION 11: SECTION, SUBSECTION HEADINGS. All sections and subsections headings contained in this Ordinance shall be deemed and shall be interpreted as part of the operative provisions of this Ordinance.

SECTION 12: SURVIVABILITY. Should any portion or portions of this Ordinance be finally determined by a court of competent jurisdiction to be unconstitutional, unlawful, or unenforceable for any reason, all other portions hereof shall remain in full force and effect until repealed or superseded by action of the Board.

SECTION 13: EFFECTIVE DATE. Pursuant to Water Code section 376, this ordinance shall be effective immediately upon its adoption, provided that, within ten (10) days after its adoption, this ordinance shall be published in full once in the official newspaper of the District.

Adopted by Board of Directors of Dublin San Ramon Services District at its regular meeting held on the 2nd day of June, 2009, passed by the following vote:

AYES: 3 - Directors Jeffrey G. Hansen, D.L. (Pat) Howard,
Daniel J. Scannell

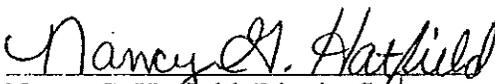
NOES: 0

ABSENT: 2 - Directors Thomas W. Ford, Richard M. Holket



Daniel J. Scannell, President

ATTEST:



Nancy G. Hatfield, District Secretary



*Adopted by Dublin San Ramon Services District
Board of Directors, June 16, 2009*

I. Introduction

District Ordinance No. 323 provides that the Board will adopt, by Resolution, a “Water Conservation Program” from time to time. The purpose of the Program is to provide policy guidance to the District water conservation program during “Normal Supply” conditions. In addition, the Program provides a list of conservation practices, water use restrictions, enforcement measures, and penalty provisions the District may consider implementing during a “Water Shortage Condition.”

II. Normal Water Supply

The policy of the District is to maintain a reliable potable water supply to meet the needs of existing customers and to meet the needs of new development planned by the City of Dublin and the City of San Ramon.¹ An important element of maintaining a reliable supply is to conserve the available supply by using the supply in an efficient manner. This section of the Program identifies the key elements of the District’s normal and ongoing water conservation activities to promote the efficient use of the water supply with District customers.

The District is a member of the California Urban Water Conservation Council² (Council). The Council develops Best Management Practices (BMPs) for water conservation that are implemented by the members, as appropriate, on a voluntary basis. There are currently five BMPs that the Council has endorsed: two foundational BMPs (1. Utility Operations Programs and 2. Education Programs) and three programmatic BMPs (3. Residential, 4. Commercial, Industrial, and Institutional, and 5. Landscape). The base water conservation program the District maintains is, to the fullest extent practicable, in conformance with the BMPs.

In addition to the commitment to BMPs, the District will annually consider providing a budget for additional water conservation activities. These activities may be continuing programs such as school educational programs regarding water conservation or annual initiatives to promote a specific conservation practice or practices.

¹ District Policy P300-06-4: Water Supply.

² Memorandum of Understanding Regarding Urban Water Conservation in California; as amended June 13, 2007.

Reporting

Annually, the District will prepare a report describing the water conservation activities during the year, their impact on the demand, and a recommendation for water conservation activities to be budgeted in the following year.

III. Water Shortage Conditions

When the District anticipates or identifies that water supplies, as a result of climatic conditions, regulatory changes, legal mandates, environmental regulations or any other cause, may not be adequate to meet the “Normal Water Supply” needs of customers, the District may declare a “Water Shortage Condition.” Such a declaration shall be enacted by a Resolution of the Board after a duly noticed public hearing is held. The Resolution shall contain the additional water conservation measures, water use restrictions, enforcement measures and/or penalty provisions that the District will implement during the duration of the declared “Water Shortage Condition.”

There are four “Water Shortage Conditions” defined in Ordinance No. 323, depending on both the certainty and severity of the threat to the water supply. Following is a summary of the provisions that may be incorporated into the declaration. The list of provisions is maintained as a ready reference of current thinking and technology regarding conservation measures, water use restrictions enforcement measures, and penalty provisions. The list is not all inclusive. In any given “Water Shortage Condition,” the District may take action not specifically identified in the Program.

The elements of each condition are organized in the following manner:

1. **Definition:** Condition of the water supply that would normally trigger this element of the Program.
2. **Message:** Public message that describes this element of the Program in communication with the public.
3. **Conservation:** Description of the general nature of conservation recommendations and/or requirements. Each progressive stage includes all measures from the previous stages.
4. **Enforcement:** The list of enforcement actions that may be authorized. Each progressive stage includes all enforcement actions from the previous stages.
5. **Penalties:** The list of penalties that may be assessed.

Stage 1 – Minimal Reduction

1. **Definition:** There are definable events that lead to a reasonable probability that in the next few water years, water supplies will not be adequate to meet customer water demands.

2. **Message:** We think we can deliver all the water our customers want, but we want their help to be sure there is adequate supply—please conserve.
3. **Conservation:** Recommend restrictions customers may consider using to achieve the desired goal. Provide regular public information regarding the overall District progress toward achieving the goal.
4. **Enforcement:** None; good conservation messages and customer service to those requesting assistance.
5. **Penalties:** None.

Stage 2 – Moderate Reduction

1. **Definition:** There are definable events that lead to a reasonable conclusion that in the current and/or upcoming water year, water supplies may not be adequate to meet customer water demands.
2. **Message:** We may not be able to deliver all the water our customers want and we need their help to conserve water.
3. **Conservation:** Voluntary – recommended restrictions for customers to consider in their efforts to achieve reduction goal. Mandatory – require restrictions by customers.
4. **Enforcement:** Voluntary – none; good conservation messages and customer service to those requesting assistance. Mandatory – letter from District regarding observed and/or reported violations; follow up letters for repeat offenders.
5. **Penalties:** None.

Stage 3 – Severe Reduction

1. **Definition:** There are definable events that lead to a firm conclusion that in the current water year, water supplies will not be adequate to meet customer water demands.
2. **Message:** We cannot deliver all the water our customers need and we are requiring our customers to use less water.
3. **Conservation:** Required restrictions on water use practices and some prohibitions.
6. **Enforcement:** Letter from District regarding observed and/or reported violations; follow up letter and visit by customer representative for repeat offenders.
4. **Penalties:** After second notice of violation, fines may be levied for additional violations.

Stage 4 – Critical Reduction

1. **Definition:** A Stage 3 shortage has been in effect and the reduction goal is not being met or new definable events require increasing the goal.
2. **Message:** We cannot deliver all the water our customers need and we have not been able to achieve targeted reductions so now we have to enforce the use of less water.
3. **Conservation:** Prohibitions implemented.
4. **Enforcement:** Letter from District regarding observed and/or reported violations; follow up letter and visit by customer representative for repeat offenders. Allocation of supply to larger repeat violators.
5. **Penalties:** Fines or flow restrictors on domestic services or lockout on irrigation services for repeat offenders.

IV. Water Conservation/Restriction Measures

Water conservation/restrictions measures applicable to various stages are outlined in the following table. Note that: Stage 1 includes all activities in Normal; Stage 2 includes all activities in Normal and Stage 1; Stage 3 includes all activities in Normal, Stage 1, and Stage 2; Stage 4 includes all activities in Normal, Stage 1, Stage 2, and Stage 3.

| Conservation Measure | Stage | | | |
|--|-------|---|---|---|
| | 1 | 2 | 3 | 4 |
| Landscape Irrigation (SFR, MFR, CII)* | | | | |
| Shut-off nozzles; no runoff, over spray, or saturation of landscape | X | X | X | X |
| Irrigate from 9 p.m. to 6 a.m.; train/educate regarding water conserving irrigation systems and dry climate plants | X | | | |
| Irrigate only on odd/even days (per odd/even address); turn off auto sprinklers when raining | | X | | |
| Irrigate only Mondays and Thursdays | | | X | |
| No turf irrigation, hand water other only on Saturday or Sunday | | | | X |
| Public Swimming Pools (SFR, MFR, CII) | | | | |
| No restrictions | X | | | |
| Must be leak proof | | X | | |
| Cover when not in use; equip with recirculating pump | | | X | |
| Drain and refill only per health or structural needs | | | | X |
| Water Theme Parks (CII) | | | | |
| Require they reclaim and recycle water | | | X | |
| Shut them down | | | | X |
| Private Swimming Pools, Spas, Fountains, Ponds (SFR, MFR, CII) | | | | |
| No restrictions | | | | |

| Conservation Measure | Stage | | | |
|---|-------|---|---|---|
| | 1 | 2 | 3 | 4 |
| Must be leak proof | X | | | |
| Cover when not in use; equip with recirculating pump | | X | | |
| Prohibit potable water use for ornamental ponds and fountains; drain and refill only for health or structural needs | | | X | |
| Prohibit draining and refilling and initial filling of swimming pools and spas | | | | X |
| Private Pavement (SFR, MFR, CII) | | | | |
| Use hose with shut-off nozzle | | | | |
| Use broom and bucket | X | X | | |
| Health need necessary to wash pavement | | | X | X |
| Private Exterior Washing of Autos, Boats, Buildings (SFR, MFR, CII) | | | | |
| No Restrictions | | | | |
| Use hose with shut-off nozzle and do so on a permeable surface | X | | | |
| Use bucket, no more than once a month; encourage use of commercial wash services that recycle water | | X | | |
| Only wash vehicles at commercial establishments that recycle water; use broom on buildings, pavement | | | X | |
| No washing with potable water | | | | X |
| New or Additional Service (SFR, MFR, CII) | | | | |
| Allowed | X | X | | |
| Subject to SB610 definition | | | X | X |
| Water for Construction (CII) | | | | |
| Use recycled water if cost effective; otherwise potable water use OK | X | X | | |
| Only recycled water (potable can be used for public health and safety projects) for construction meters | | | X | X |
| Restaurants (CII) | | | | |
| Offer rebates on low flow rinse nozzles; post water conservation messages on bathroom mirrors | X | | | |
| Require use of low flow rinse nozzles; require they serve water only on request | | X | X | X |
| Laundromats (CII) | | | | |
| Turn off water if not efficient washing machines | | | | X |

- SFR: single-family resident
- MFR: multifamily resident
- CII: Commercial, Industrial, Institutional customers