

ORDINANCE NO. 2021-01

AN ORDINANCE OF ALAMEDA COUNTY WATER DISTRICT DECLARING  
A WATER SHORTAGE EMERGENCY AND ADOPTING WATER USE  
REGULATIONS, RESTRICTIONS AND GUIDELINES FOR THE WATER  
SHORTAGE EMERGENCY

BE IT ORDAINED by the Board of Directors of ALAMEDA COUNTY WATER DISTRICT as follows:

SECTION 1. DECLARATION OF A WATER SHORTAGE EMERGENCY.

The Board of Directors finds and declares as follows:

- (a) The District is responsible for providing a reliable supply of high-quality water within its service area.
- (b) The District's primary sources of supply include: imported water from the State Water Project (40%); imported water from the San Francisco Public Utilities Commission (SFPUC) Regional Water System (20%); and local supplies originating from rainfall and runoff from the Alameda Creek Watershed (40%).
- (c) Locally, Water Year (WY) 2019/20 was a dry year with only 58% of the long-term average precipitation, followed by a second dry year, WY 2020/21, with only 46% of the long-term average.
- (d) On May 10, 2021, Gavin Newsom, Governor of California, proclaimed a Drought Emergency to exist in Alameda County due to severe drought conditions.
- (e) On May 13, 2021, The District launched its "One Saves Water" water conservation campaign and asked customers to take simple actions to save water.
- (f) The District's Water Shortage Contingency Plan, adopted by resolution on May, 13, 2021 along with the District's Urban Water Management Plan, establishes criteria and guidelines for operations and water conservation during a water shortage condition and states that "the District Board shall declare a water shortage emergency condition to prevail whenever it is determined that the ordinary demands and requirements of our customers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection."
- (g) On July 8, 2021, Governor Newsom, issued an Executive Order requesting a voluntary 15% reduction by all Californians, and the District began a request for a voluntary 15% reduction by its customers.
- (h) During July, August, September, and October 2021, District customers had not yet achieved enough additional conservation to consistently meet the District's 15% reduction goal. The

District saw a 6% reduction in July 2021, a 8% reduction in August 2021, a 5% reduction in September 2021, and a 15% reduction in October 2021 in comparison to 2020 water demands during those same months. The District significantly increased customer outreach and Water Use Efficiency program efforts to achieve further savings.

- (i) On October 19, 2021, Governor Newsom proclaimed a Statewide Drought Emergency and urged Californians to step up their water conservation efforts and directed local water suppliers to execute their urban Water Shortage Contingency Plans at a level appropriate to local conditions that takes into account the possibility of a third consecutive dry year.
- (j) The District conducted public outreach, coordinated with Cities and other stakeholders, and hosted public meetings on November 3, 2021 in advance of the November 17, 2021 Board meeting, where consideration of a water shortage emergency and supporting Ordinance was reviewed with the Board.
- (k) On November 23, 2021, the San Francisco Public Utilities Commission (SFPUC) declared a water shortage emergency and established a voluntary systemwide 10% water use reduction.
- (l) On December 1, 2021, the California Department of Water Resources (DWR) announced the initial 2022 State Water Project (SWP) allocation will only allocate available new water supplies necessary to provide for unmet minimum health and safety requirements.
- (m) WY 2021/22 is also projected to be dry, impacting local surface water and groundwater supplies, in addition to the constraints on the District's imported supplies.
- (n) The District finds that ordinary water use demand will be approximately 15% greater than available water supply levels in 2022.
- (o) The District's Water Shortage Contingency Plan recommends a Stage 2 Water Shortage Emergency condition be declared when the District identifies up to a 20% water supply shortage.
- (p) This Water Shortage Emergency Ordinance based on Stage 2 Water Shortage Emergency condition was developed to achieve a 15% reduction through mandatory conservation measures such as eliminating water waste, limiting outdoor irrigation while maintaining landscape viability, and minimizing other non-essential uses.
- (q) Additional findings supporting the actions in this Ordinance are set forth in the staff report for this Ordinance and the November 17, 2021 and December 9, 2021 staff presentations to the Alameda County Water District Board of Directors, which are incorporated into this Ordinance by this reference.
- (r) On November 17, 2021, at a properly noticed regular Board meeting, the Board considered whether to declare that a water shortage emergency condition exists within the water service area of the District and set a public hearing for December 9, 2021 on this issue, and to provide

District customers an opportunity to be heard to protest against the declaration and to present their needs to the Board of Directors.

- (s) Notice of the public hearing was published pursuant to law one time at least seven days prior to the date of the public hearing in *The Tri-City Voice* and *The Argus*, newspapers of general circulation, printed and published within the water service area of the District.
- (t) A summary of this Ordinance was published in *The Tri-City Voice* and *The Argus* at least five days prior to the date of the public hearing.
- (u) The full text of this Ordinance was posted in the office of the District and posted on the District's website at least five days prior to the public hearing.
- (v) At the public hearing all persons present were given an opportunity to be heard and all persons desiring to be heard were heard.
- (w) The public hearing was called, noticed, and held in all respects as required by law.
- (x) This Board heard and has considered each protest against the water shortage emergency declaration and all comments presented at the public hearing.
- (y) The Board of Directors declares that a water shortage emergency condition exists and prevails within the water service area of this District and declares that the District is in Stage 2 of its Water Shortage Contingency Plan and directs that Stage 2 be implemented. The water shortage exists by reason of the fact that the ordinary demands and requirements of the water consumers in the Alameda County Water District service area cannot be met and satisfied by the water supplies now available to the District without depleting the water supply or diminishing its quality to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

Nothing in this Ordinance is intended to impact the District's ability to take actions to maximize its water supplies for an anticipated long term water shortage emergency, for example by participating in regional reliability efforts or in water wheeling or water transfer arrangements, in ways that benefit the District and its customers.

## SECTION 2. PURPOSE AND AUTHORITY.

The purpose of this Ordinance is to conserve the water supply of the District for the greatest public benefit with particular regard to public health, fire protection and domestic use; to conserve water by reducing and restricting nonessential water use that if continued would constitute waste; and to the extent necessary by reason of drought and the existing water shortage emergency condition, to reduce water use fairly and equitably. This Ordinance is adopted pursuant to the District's authority under Sections 350 et seq., 365 et seq., and 31026 et seq. of the California Water Code.

The water supply of the District includes water from the District's distribution system, as well as groundwater from the Niles Cone Groundwater Basin (Niles Cone or Subbasin 2-09.01), which

the District manages and regulates pursuant to its statutory authority authorizing groundwater management, specifically the County Water District Law (California Water Code Section 30000 et seq.), the Replenishment Assessment Act of the Alameda County Water District (Chapter 1942 of the Statutes of 1961, as amended in 1970 and 1974), the Alameda County Water District Groundwater Protection Act (California Water Code Section 31142.20 et seq.), ACWD Ordinance No. 2010-01, Hayward Well Standards, and the Sustainable Groundwater Management Act (SGMA) (California Water Code Section 10720 et seq.).

The Niles Cone Groundwater Basin is an essential component of the District's water supply and must be conserved during this water shortage emergency. This Ordinance applies to all water from the District's water distribution system from any of the District's water supply sources and to all wells, public and private, within the District's service area boundary that produce water from the Niles Cone Groundwater Basin.

### SECTION 3. EFFECT OF ORDINANCE.

This Ordinance shall take effect immediately upon adoption by the District's Board of Directors, shall supersede and control over any other ordinance or regulation of the District in conflict herewith, and shall remain in effect until the Board of Directors declares that the water shortage emergency has ended.

### SECTION 4. WATER USE LIMITATIONS.

#### (a) Mandatory Restrictions on Water Use.

During the water shortage emergency condition, and to preserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection, the following uses of water are prohibited, unless exempt to meet state and federal permit obligations:

- (1) Use of water in violation of ACWD Ordinance No. 2008-01 Prohibiting Wasteful Use of Water, pursuant to California Water Code Section 375;
- (2) Use of water for the irrigation of lawns or other landscaped areas using overhead irrigation, which is any irrigation that is applied above the ground surface through the air, on consecutive days cannot be more frequent than (per irrigation valve):
  - One day every other week for the period of November 1 through February 28. Landscape irrigation during this period should be avoided except during an extended dry period;
  - One day per week for the period of March 1 through May 31;
  - Two days per week for the period of June 1 through September 30; and
  - One day per week for the period of October 1 through October 31.
  - Landscape irrigation of turf at sports fields, playing fields, and other active recreation use areas within public parks, school grounds, golf course greens, and day care centers, will be allocated one additional day per week during each period provided that such irrigation does not exceed:

- One day per week for the period of November 1 through February 28. Landscape irrigation during this period of should be avoided except during an extended dry period;
- Two days per week for the period of March 1 through May 31;
- Three days per week for the period of June 1 through September 30; and,
- Two days per week for the period of October 1 through October 31.
- Landscape irrigation during and within 48 hours of measurable rainfall of at least one-fourth of one inch of rain, is prohibited. In determining measurable rainfall in a given area, records of the National Weather Service, the closest CIMIS station, or any other reliable source of rainfall data available to the District may be used.
- Potable water on ornamental turf in public street medians, is prohibited.

This section does not apply to the following categories of use:

- Watering or irrigating with drip or other subsurface irrigation systems
- Watering trees with bubblers
- Watering or irrigating trees that are on a separate valve that irrigates trees only.
- Watering or irrigating by use of a hand-held bucket or similar container.
- Watering water-efficient landscaping to get low water use, drought tolerant, or native plants established with a hose equipped with a shut off nozzle, or other acceptable means (i.e., bucket, watering can, greywater).
- Watering for very short periods of time (5 minutes maximum per valve) for the express purpose of adjusting or repairing an irrigation system.
- Maintenance of existing landscape necessary for fire protection.
- Maintenance of existing landscape for soil erosion control.
- Maintenance of plant materials identified to be rare or essential to the well-being of protected species.
- Actively irrigated environmental mitigation projects.
- Maintenance of vegetation, including fruit trees and shrubs, intended for consumption.

Note: Maintenance of landscape for the purposes listed above should be done with drip or in-line irrigation systems, wherever feasible.

Increasing the frequency or duration of irrigation run times to offset the above restrictions on the number of days of allowable irrigation is contrary to the purpose of this Ordinance and is therefore prohibited.

- (3) Use of water for lawn or garden watering, or any other landscape irrigation, in a manner which results in excessive ponding, flooding, and excessive runoff in gutters or other waterways, patios, driveways, walks or streets. Incidental runoff that results in water flows onto adjacent property, non-irrigated areas or structures is also prohibited. Every customer is deemed to have their water system under control at all times, to understand

the manner and extent of the system's water use and run-off, and employ all available means to irrigate efficiently and within the requirements of this Ordinance;

- (4) Use of water for washing sidewalks, walkways, driveways, patios, parking lots, tennis courts or other hard-surfaced areas by direct hosing, except as may be necessary to protect public health and safety;
- (5) Use of hoses for any purpose, including washing cars, boats, trailers or other vehicles and machinery, without a quick-acting positive shutoff nozzle and which result in excessive ponding, flooding, and excessive runoff in gutters or other waterways, patios, driveways, walks or streets;
- (6) The use of water for cleaning building or mobile home exteriors, including windows, except for the preparation of such exterior surfaces for the purpose of repair or repainting (only allowed with the use of a pressurized washing device equipped with a quick-acting positive shutoff nozzle);
- (7) The draining and refilling of all existing swimming pools, except for protection of public health and safety;
- (8) Use of single pass cooling systems in new (non-residential) connections;
- (9) Use of non-recirculating systems in new conveyer car wash and commercial laundry systems;
- (10) Use of decorative water fountains<sup>a</sup>;
- (11) Leaks and breaks within the customers' plumbing must be fixed seventy-two (72) hours after the customer discovers the break or leak or receives notice from the District, or as a minimum, must be addressed to stop the flow of water from such break or leak;

Depending on the continued severity of the drought and water shortage emergency, the District may update this Ordinance to impose additional water use prohibitions as conditions warrant. Any updates to this Ordinance will be adopted pursuant to the District's authority under Sections 350 et seq., 365 et seq., and 31026 et seq. of the California Water Code.

(b) Enforcement of Restrictions.

- (1) First Written Warning: If the District determines that a customer is using water in violation of this Ordinance, the District will send a written warning to the customer. The warning will list the name and address of the person on the account where the violation is occurring, identify the wasteful use of water that violates the mandatory restrictions on water use, request that the customer stop such wasteful use, inform the customer about the process for applying for an exception from the requirements of this

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<sup>a</sup> Fountains listed on the *National Register of Historic Places* are exempt.

Ordinance, and inform the customer that failure to comply with this Ordinance may result in the termination of service.

- (2) On-site Notification: The District may, after issuing a written warning, and if the customer does not request an exception, investigate, either through a follow-up visit or other means, in order to ascertain whether wasteful use of water is still occurring. In the event that continued waste of water that violates the mandatory restrictions on water use is identified or observed, and no exception has been granted, the District will make reasonable efforts to notify, on the phone or in person, an adult residing at the property if a residential account or an adult working on the property if a non-residential account, and will issue a second written warning by on-site notification of wasteful water use and the customer will be charged the field service visit charge established in the District's Rate and Fee Schedule. This second written warning will include all the information included in the first written warning and will be hand delivered to an adult on the premises or posted on the premises.
- (3) Termination of Water Service: In the event that District personnel identify or observe continued waste of water that violates the mandatory restrictions on water use occurring at a customer's premises more than 48 hours after the on-site notification, and the customer has not requested an exception, it shall be deemed to be a willful violation of the mandatory restrictions on water use, and the General Manager may authorize termination of water service. Flow restrictors may be installed where termination of water service is not feasible. The customer will be charged applicable fees established in the District's Rate and Fee Schedule\*.
- (4) Restoring Water Service: The customer must have stopped the wasteful use of water and have paid all charges owed to the District under this Ordinance before the District will restore full water service. The customer will be charged applicable fees established in the District's Rate and Fee Schedule\*.

\*The applicable fees charged to the customer will be as established in the District's Rate and Fee Schedule in effect at the time the charge is incurred, as the Rate and Fee Schedule may be amended by the District.

(c) Violation is a Misdemeanor.

Pursuant to California Water Code Section 31029, use of water in violation of the restrictions on water use set forth in Section 4 of this Ordinance is a misdemeanor punishable by imprisonment in a county jail for not more than 30 days, or by a fine not exceeding \$600, or both.

(d) Further Prohibitions.

It is unlawful to remove, replace, alter, or damage any water meter or components thereof, including but not limited to the meter face, its dials or other water usage indicators and any flow restricting device installed pursuant to this Ordinance, and any such actions will be deemed the theft of water and is a misdemeanor under California Penal Code Section 498.

## SECTION 5. WATER USE GUIDELINES.

During the water shortage emergency condition, customers are urged to adhere to the following guidelines to conserve the limited water supply available:

- (1) Use water for beneficial purposes in a manner which minimizes the use of water.
- (2) Look for leaks and repair them as soon as possible.
- (3) Replace older inefficient and high volume/high flow plumbing fixtures (e.g., toilets, showerheads, faucets, clothes washers) with newer, water-efficient models.
- (4) Reduce indoor water use by taking the following actions:
  - a. Turn off the tap while brushing teeth, shaving, and washing hands
  - b. Run dishwashers and washing machines with full loads only
  - c. Take shorter showers
  - d. Reduce unnecessary toilet flushes
  - e. Defrost frozen food in the refrigerator
  - f. Collect your shower warm up water and use it to flush your toilet
  - g. Turn off water when washing your hair or body
- (5) Reduce outdoor water use by taking the following actions:
  - a. Install a rain barrel and use collected water for landscape irrigation
  - b. Remove lawn and install low water use plants instead
  - c. Use water collected from indoor uses, such as shower warm up water or water used to rinse vegetables, for plants
  - d. Wash cars at a commercial car wash that recycles water
  - e. Put compost and mulch around your plants to reduce soil evaporation
- (6) Landscape Irrigation Guidelines:
  - a. Irrigate early in the morning (before 10:00 a.m.), to minimize evaporation.
  - b. Installation of new landscaping should utilize best known irrigation and horticultural practices for efficient water use.
  - c. Existing irrigation systems should be evaluated and repaired to minimize leaks and evaporation and increase water use efficiency.
  - d. Water used outdoors should be prioritized for trees. Watering trees gradually but deeply will ensure they survive. Trees are best watered by hand or using a drip irrigation system.



- e. Use of drought tolerant plant species wherever possible when replacing or renovating existing landscapes and at all new landscape installations. Installation of non-drought tolerant landscaping, including turf, should be avoided.
  - f. Use non-potable water from rainwater capture and/or graywater systems for landscape irrigation where possible. Graywater should not be used in vegetable gardens on root crops that will be consumed as food or in areas where edible parts of plants touch the ground surface. Regulations for the design and construction of graywater systems can be found in Chapter 15 of the California Plumbing Code. Check for requirements at city permitting departments. Learn more at [acwd.org/graywater](http://acwd.org/graywater).
- (7) Use non-potable water for construction purposes when it is appropriate and available. If reclaimed water is used, the proposed conditions of use must meet the requirements of the San Francisco Bay Regional Water Quality Control Board.
  - (8) Non-residential customers should utilize process water systems which recycle water when possible.
  - (9) Restaurants should serve water to customers only when requested.
  - (10) Hotels should provide guests with an option of choosing not to have towels and linens changed and laundered daily and prominently display notice of this option.

#### SECTION 6. APPLICATION PROCEDURE FOR EXCEPTIONS.

Consideration of applications for exceptions regarding the mandatory restrictions on water use set forth in Section 4 shall be as follows:

- (a) A customer may submit a written application or electronic form for an exception to the mandatory restrictions on water use to the District's Drought Management Team. The application must be on the District's form and must include the customer name, account number(s), if applicable, a description of the proposed water use and estimated duration and quantity of water use (e.g., gallons per day), and a description of the reason an exception is requested.
- (b) The Drought Management Team will consider each application for an exception to the mandatory restrictions on water use based on the criteria established, within the District's form, for residential and non-residential customers. If the criteria are satisfied, the Drought Management Team may grant exceptions for reasons that include benefits of the excepted water use, need of water use, potential adverse economic impacts, implementation complexities and issues, and mitigation measures and offsets.

- (c) A customer may appeal a denial of an application by submitting a written or electronic appeal to the General Manager on the District's form and include the reasons why the customer disagrees with the denial.

SECTION 7. EXEMPTION FROM CEQA.

The District Board of Directors finds that the actions taken in this Ordinance are exempt from provisions of the California Environmental Quality Act of 1970 because they are immediate actions necessary to prevent or mitigate an emergency, as described in section 15269(c), and to assume the maintenance, restoration, or enhancement of a natural resource, as described in section 15307, of the Guidelines promulgated under said Act.

SECTION 8. SEVERABILITY.

If any provision of this Ordinance is held to be invalid or unenforceable, that holding will not affect the remainder of the Ordinance, which shall remain in full force and effect.

SECTION 9. PUBLICATION AND POSTING OF ORDINANCE.

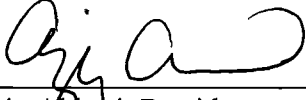
The Board of Directors direct that a summary of this Ordinance be published in *The Tri-City Voice* and *The Argus*, and that a certified copy of the full text of this Ordinance be posted in the Office of the District and on the District's website within ten days from the date this Ordinance is adopted. The posted Ordinance shall identify how each Director voted on this Ordinance.

PASSED AND ADOPTED this 9<sup>th</sup> day of December, 2021, by the following vote:

AYES: Directors Weed, Gunther, Huang, Sethy, and Akbari

NOES: None

ABSENT: None

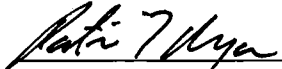
  
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Aziz Akbari, President  
Board of Directors  
Alameda County Water District

ATTEST:



Gina Markou, District Secretary  
Alameda County Water District

APPROVED AS TO FORM:



Patrick T. Miyaki, General Counsel  
Alameda County Water District