

## ORDINANCE NO. 219

### AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT REPEALING ORDINANCE NO.198 AND ADOPTING A DROUGHT RESPONSE WATER CONSERVATION PROGRAM THAT CONFORMS TO THE DISTRICT'S WATER SHORTAGE CONTINGENCY PLAN

BE IT ORDAINED by the Board of Directors of the Vallecitos Water District as follows:

#### **SECTION 1: DECLARATION OF NECESSITY AND INTENT OF WATER SUPPLIES AND/OR DROUGHT MANAGEMENT PLAN**

This ordinance establishes regulations to be implemented during times of drought, declared water shortages, water conservation mandates, or emergencies to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and prevent unreasonable use of water within the Vallecitos Water District. Such actions are to ensure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management. This ordinance establishes six levels of water conservation response actions to be implemented in times of shortage, mandate or emergency with increasing restrictions on water use in response to worsening drought, mandate or emergency conditions and decreasing available supplies.

#### **SECTION 2: APPLICATION**

(a) The provisions of this ordinance apply to any customer using water provided by the Vallecitos Water District ("District").

(b) This ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of Federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.

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

(d) The provisions of this ordinance do not apply to use of the water from private wells or to recycled water.

(e) Nothing in this ordinance shall apply to use of water that is subject to a special supply program, such as the San Diego County Water Authority Permanent

Special Agricultural Water Rate Programs (PSAWR). Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and also domestic water provided by the District is subject to this ordinance in the use of the District provided domestic water only.

### **SECTION 3: WATER WASTE PROHIBITIONS**

The following prohibitions are in effect at all times:

(a) The use of potable water for irrigation of ornamental turf within the public street rights of ways including adjacent landscape strips.

(b) The use of potable water outside of newly constructed homes and buildings inconsistent with regulations established by the California Building Standards Commission.

(c) The application of potable water to outdoor landscaping during and after 48 hours of a measurable rain event.

(d) A customer shall not allow water to leave the customer's property by drainage onto adjacent properties or public or private roadways or streets or gutters due to excessive irrigation and/or uncorrected leaks.

(e) Customers shall repair or stop all water leaks upon discovery or within forty-eight hours of notification by the Vallecitos Water District.

(f) Washing any paved area (sidewalks, driveways, parking areas, tennis courts, etc.) is only allowed to alleviate immediate safety or sanitation hazards. To relieve hazards, only a power washer or a hose with a shutoff nozzle may be used.

(g) A customer shall not continuously fill swimming pools and spas that are draining due to uncorrected leaks.

(h) A customer shall not use non-recirculating ornamental fountains or cascading fountains.

(i) Vehicle washing shall only be done in a commercial car wash or by using a hose with an automatic shutoff nozzle or hand held container.

(j) Restaurants and other food establishments shall only serve and refill water upon request.

(k) Guests in hotels, motels, and other commercial lodging establishments shall be provided the option of not laundering towels and linens daily.

(l) A customer may only irrigate potted plants, non-commercial vegetable

gardens and fruit trees, residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, before 10:00 a.m. and after 6:00 p.m. A customer may irrigate the following at any time:

- (1) as required by a landscape permit;
- (2) as needed for erosion control;
- (3) for establishment, repair, or renovation of public use fields for schools and parks;
- (4) for landscape establishment following a disaster, such as a fire;
- (5) for renovation or repair of an irrigation system with an operator present; or
- (6) for commercial growers, agricultural water accounts and nurseries using a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip or micro-irrigation system or equipment is used. Irrigation of nursery propagation beds is permitted at any time.

**SECTION 4: DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH - 10% REDUCTION**

This is a “Drought Watch” condition, and applies when the District is notified that, due to drought, water conservation mandates or other supply reductions, there is a reasonable probability there will be a required consumer demand reduction of up to 10 percent. The District General Manager shall declare the existence of a Drought Response Level 1 and implement Level 1 voluntary conservation practices. The District will increase public outreach and awareness and take action to encourage Level 1 conservation practices:

**(a) LEVEL 1 VOLUNTARY CONSERVATION PRACTICES**

(1) Residential and commercial landscape irrigation is limited to no more than three assigned days per week from June through October and no more than two days per week, from November through May, on a schedule established by the General Manager and posted by the District. This shall not apply to commercial growers, agricultural water accounts or nurseries.

(2) Use recycled or non-potable water for construction purposes when available and permitted for use in accordance with all local, State and Federal regulations.

**SECTION 5: DROUGHT RESPONSE LEVEL 2 – DROUGHT ALERT – 20% REDUCTION**

This is a "Drought Alert" condition, and applies when the District is notified that, due to drought, water conservation mandates or other supply reductions, there is a reasonable probability there will be a required consumer demand reduction of up to 20 percent. With this alert, the District will increase public outreach and awareness regarding mandatory Level 2 conservation practices. The District Board of Directors shall declare the existence of Drought Response Level 2 condition, the allocation reduction, and implement Level 2 mandatory water conservation practices. All District customers shall comply with the applicable Level 2 Drought Alert mandatory conservation practices:

**(a) LEVEL 2 MANDATORY CONSERVATION PRACTICES**

(1) Residential and commercial landscape irrigation is limited to no more than three assigned days per week from June through October and no more than two days per week, from November through May, on a schedule established by the General Manager and posted by the District. This shall not apply to commercial growers, agricultural water accounts or nurseries.

(2) Drought Rates are in effect at the Drought Alert Rate.

**SECTION 6: DROUGHT RESPONSE LEVEL 3 – DROUGHT ALERT – 30% REDUCTION**

This is a "Drought Alert" condition, and applies when the District is notified that, due to drought, water conservation mandates or other supply reductions, there is a reasonable probability there will be a required consumer demand reduction of up to 30 percent. With this alert, the District will increase public outreach and awareness regarding mandatory Level 3 conservation practices. The District Board of Directors shall declare the existence of Drought Response Level 3 condition, the allocation reduction, and implement Level 3 mandatory water conservation practices. All District customers shall comply with the applicable Level 2 and Level 3 Drought Alert mandatory conservation practices:

**(a) LEVEL 3 MANDATORY CONSERVATION PRACTICES**

(1) Irrigation, using standard sprinklers, is limited to no more than 10 minutes per watering station per assigned day. Systems using water-efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotors are excluded.

(2) Drought Rates are in effect at the Drought Alert Rate.

**SECTION 7: DROUGHT RESPONSE LEVEL 4 – DROUGHT CRITICAL – 40% REDUCTION**

This is an official “Drought Critical” condition, and applies when the District is notified that, due to drought, water conservation mandates or other supply reductions, there is a reasonable probability there will be a required consumer demand reduction of up to 40 percent. The District Board of Directors shall declare the existence of a Drought Response Level 4 condition, the allocation reduction, and implement mandatory Level 4 conservation practices. All District customers shall comply with Level 4 Drought Critical and applicable Level 2 and 3 Drought Alert mandatory conservation practices:

**(a) LEVEL 4 MANDATORY CONSERVATION PRACTICES**

(1) Residential and commercial landscape irrigation is limited to no more than two assigned days per week from June through October and no more than once per week, from November through May, on a schedule established by the General Manager and posted by the District. This shall not apply to commercial growers, agricultural water accounts or nurseries.

(2) Irrigation, using sprinklers, will be limited to no more than 8 minutes per watering station per assigned day. Systems using water-efficient devices, including but not limited to: weather-based controllers, drip/micro-irrigation systems and stream rotors are excluded.

(3) The filling or refilling of pools or spas is prohibited, except as needed to prevent damage to the pool or spa.

(4) Drought Rates are in effect at the Drought Critical Rate.

**(b) NEW POTABLE WATER SERVICE ALLOWANCE**

Upon the declaration of a Drought Response Level 4 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided or installed, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates or letters of availability) shall be issued, except under the following circumstances:

(1) A valid, unexpired building permit has been issued for the property as of the date of adoption of a Drought Response Level 4 and meter capacity fees have been paid; or

(2) The project is necessary to protect the public's health, safety and welfare; or

(3) The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

(c) **RESTORATION OF SERVICE / METER TURN ON**

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

(d) **MISCELLANEOUS PROVISIONS**

(1) Upon the declaration of a Drought Response Level 4 condition, the District will suspend consideration of water service annexations to its service area.

(2) The District may establish a water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the District establishes water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty in the amount as adopted by the District Board of Directors for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation for this ordinance.

**SECTION 8: DROUGHT RESPONSE LEVEL 5 – DROUGHT CRITICAL – 50% REDUCTION**

This is an official "Drought Critical" condition, and applies when the District is notified that, due to drought, water conservation mandates or other supply reductions, there is a reasonable probability there will be a required consumer demand reduction of up to 50 percent. The District Board of Directors shall declare the existence of a Drought Response Level 5 condition, the allocation reduction, and implement mandatory Level 5 conservation practices. All District customers shall comply with Level 5 Drought Critical and applicable Level 2 and 3 Drought Alert mandatory conservation practices and Level 4 Drought Critical mandatory conservation practices:

(a) **LEVEL 5 MANDATORY CONSERVATION PRACTICES**

(1) Power washing and/or cleaning and spraying of commercial or residential structures is prohibited.

- (2) Ornamental lakes or ponds shall not be refilled, except to the extent needed to sustain aquatic life.
- (3) Washing vehicles except at commercial carwashes that re-circulate water by high pressure/low volume wash systems is prohibited.
- (4) Drought Rates are in effect at the Drought Critical Rate.

**SECTION 9: DROUGHT RESPONSE LEVEL 6 - DROUGHT EMERGENCY CONDITION – GREATER THAN 50% REDUCTION**

This is an official “Drought Emergency” condition, and applies when the District is notified that, due to drought, water conservation mandates or other supply reductions, there is a reasonable probability there will be a required consumer demand reduction of greater than 50 percent. The District shall declare a Drought Emergency in the manner and on the grounds provided in California Water Code Section 350. All District customers shall comply with conservation practices required during Level 2 and 3 Drought Alert, and Level 4 and 5 Drought Critical conditions and shall also comply with Level 6 Drought Emergency mandatory conservation practices:

**(a) LEVEL 6 MANDATORY CONSERVATION PRACTICES**

- (1) All landscape irrigation and other outdoor watering for residential and commercial customers, not including commercial growers, agricultural water accounts and nurseries, is prohibited, except the minimum use necessary for:
  - (i) Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;
  - (ii) Maintenance of existing landscaping for erosion control;
  - (iii) Maintenance of plant materials identified to be rare or essential to the well-being of rare animals;
  - (iv) Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two days per week;
  - (v) Watering of livestock; and
  - (vi) Public Works projects and actively irrigated environmental mitigation projects.

(b) The District may establish a water allocation for property served by the District. If the District establishes water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty in the amount as adopted by the Board of Directors for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.

(2) Drought Rates are in effect at the Drought Emergency Rate.

#### **SECTION 10: HARDSHIP VARIANCE**

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

(a) The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a customer using District water or to property upon which District water is used, that is disproportionate to the impacts to District water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.

(1) An application for a Hardship Variance shall be in writing and may be accompanied by photographs, maps, drawings, and other information in support of the application.

(2) An application for a Hardship Variance shall be denied unless the General Manager finds, based on the information provided in the application, supporting documents or such additional information as may be requested, and on the water use information for the property as shown by the records of the District, all of the following:

(i) That the variance does not constitute a grant of special privilege inconsistent with the limitation upon other District customers.

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



(iii) That authorization of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the District to effectuate the purpose of this Ordinance and will not be detrimental to the public interest.

(iv) The condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.

(b) The General Manager shall exercise approval authority and set a hearing within 10 days upon receipt of a completed application for a Hardship Variance. The General Manager shall notify the applicant of the decision to approve, conditionally approve, or deny the variance within 5 days of the hearing.

(c) A customer may appeal the decision of the General Manager by filing a request for a hearing before the District Board of Directors, at a regularly scheduled Board meeting, within 10 days of the decision. The District will provide written notice of the hearing day to the customer. At the hearing before the Board the customer may present testimony and written documentation demonstrating that the Hardship Variance is warranted in accordance with the requirements of this section. The decision of the Board of Directors shall be final.

#### **SECTION 11: VIOLATIONS AND PENALTIES**

In addition to any other remedies which the District may have for the enforcement of this Ordinance pursuant to Water Code Section 31029, any person who uses, causes to be used, or permits the use of water in violation of this ordinance is guilty of an offense punishable as provided herein. Each day that a violation of this ordinance occurs is a separate offense. Administrative fines may be levied for each violation of a provision of this ordinance as follows:

(a) **FINES**

(1) One hundred dollars (\$100.00) for a first violation.

(2) Two hundred dollars (\$200.00) for a second violation of any provision of this ordinance within one year of the prior violation.

(3) Five hundred dollars (\$500.00) for each additional violation of this ordinance within one year of the prior violation.

(4) Violation of a provision of this ordinance is subject to enforcement through installation of a flow-restricting device in the meter.

(b) Each violation of this ordinance may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than 30 days or by a fine not exceeding \$1,000, or by both as provided in Water Code Section 377.

(c) Willful violations of the mandatory conservation measures and water use restrictions as set forth during Stage 4 Drought Emergency condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code Section 346.

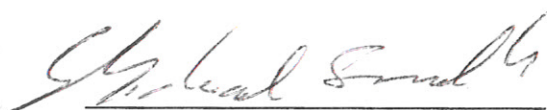
(d) All remedies provided for herein shall be cumulative and not exclusive.

**SECTION 12: EFFECTIVE DATE**

This ordinance is effective immediately upon adoption or as otherwise established by State law for the Vallecitos Water District.

PASSED, APPROVED AND ADOPTED on this 17<sup>th</sup> day of November, 2021, by the following roll call vote:

AYES: BOYD-HODGSON, ELITHARP, HERNANDEZ, PENNOCK, SANNELLA  
NOES:  
ABSTAIN:  
ABSENT:



Michael A. Sannella, President  
Board of Directors  
Vallecitos Water District

ATTEST:



Glenn Pruim, Secretary  
Board of Directors  
Vallecitos Water District