

ORDINANCE NO. 2021-05-05

ORDINANCE OF THE BOARD OF DIRECTORS OF THE
SANTA MARGARITA WATER DISTRICT, ORANGE
COUNTY, CALIFORNIA, ADOPTING A WATER
CONSERVATION AND WATER SUPPLY SHORTAGE
PROGRAM

BE IT ORDAINED BY THE Board of Directors of the Santa Margarita Water District (the "District") as follows:

SECTION 1. Declaration of Policy. California Water Code Section 375 et seq. provides public water purveyors with the authority to adopt and enforce a water conservation program to (1) protect the health, safety and welfare of the customers of the District, (2) maximize the beneficial use of the District's water supplies, and (3) ensure that there will be sufficient water supplies to meet the basic needs of human consumption, sanitation and fire protection. California Water Code Section 353 specifies when a governing body has declared the existence of a water shortage it shall adopt regulations and restrictions on the consumption of water to conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection. The Board of Directors of the District ("Board") hereby establishes this District Water Conservation and Water Supply Shortage Program that aligns with California Water Code Sections 375 et seq. and 353 et seq., to reduce the quantity of water used by persons within the jurisdiction of the District for the purpose of conserving the District's water supplies.

SECTION 2. Findings.

- a. Southern California is a semi-arid region and is largely dependent upon imported water supplies. A growing population, climate change, environmental and seismic concerns, and other hydrologic and regulatory factors in the State and western United States, make the region susceptible to potential water supply reliability issues; and
- b. The District, like much of South Orange County relies on imported potable water to meet its water demands; and
- c. A reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of California; and
- d. Careful water management that includes active water conservation and demand management measures not only in times of drought, but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs, and
- e. Article X, Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof; and

- f. The District adopted Ordinance 2014-10-03, adopting a Comprehensive Water Conservation Program on October 17, 2014 establishing a staged water conservation program; in response to the reduction in the District's allocation of imported water from Metropolitan Water District of Southern California (MWD) and Municipal Water District of Orange County (MWDOC); and
- g. California, including Orange County, experienced significant dry year conditions in 2012-2017, which prompted the State to declare a statewide drought emergency in May of 2015 and mandated the District to reduce water use by 23%; and
- h. The District achieved the State-mandated 23% savings by implementing adaptive water shortage response actions and collaboratively working with the community to minimize the collective pain of a statewide declared drought; and
- i. Following the end of the 2012-2017 drought, the California Legislature modified the Urban Water Management Planning Act and California Water Code, particularly Code Section 10632, which now mandates new elements to Urban Water Management Plans, including a Water Shortage Contingency Plan that requires six defined water shortage stages, an annual Water Supply and Demand Assessment and Drought Risk Assessment, and statewide water use prohibitions; and
- j. This Ordinance establishes six escalating stages of water shortage regulations and is consistent with new requirements in the Water Code for Urban Water Management Plans.

NOW THEREFORE, this Ordinance contains provisions for a Water Conservation and Water Supply Shortage Program.

SECTION 3. Declaration of Purpose and Intent.

- a. This Ordinance establishes a water conservation and supply shortage program that will encourage reduced water consumption within the District through conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the District to avoid and minimize the effect and hardship of water shortage to the greatest extent possible.
- b. This Ordinance establishes permanent water conservation best management practices to induce the efficient use of water regardless of water supply conditions and establishes six levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, designed to achieve progressively greater levels of conservation based on the conditions of the declared water shortage or emergency.

- c. This Ordinance supports the District’s Water Shortage Contingency Plan (WSCP), which is required by Water Code Section 10632. The WSCP, as amended from time to time, describes the demand management measures and water shortage actions that can be implemented by the Board in declaring a water shortage level and provides policy considerations, criteria and other guidance for the selection and implementation of such measures.
- d. This Ordinance is intended to complement and be used in conjunction with the budget-based tiered pricing structure adopted by the District in 2014. The budget-based pricing structure encourages use within a water budget through a tiered commodity pricing system and discourages wasteful use. Any modifications to the pricing structure must be consistent with the provisions of Proposition 218.

SECTION 4. Ordinance enacted to update and revise District’s Water Conservation Ordinance. The District’s former Water Conservation Program Ordinance (as most recently updated and revised by Ordinance No. 2014-10-03) is hereby amended in its entirety and its provisions replaced by the provisions of this Ordinance.

SECTION 5. Application. The provisions of this Ordinance shall apply to all persons, entities, customers, and properties served by the District (hereinafter collectively referred to as "customers"). The provisions of this Ordinance do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services. The provisions of this Ordinance do not apply to use of water from private wells. 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; refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans. Provisions of this Ordinance may be used in conjunction with local jurisdictions to meet regional water quality and conservation requirements.

SECTION 6. Authorization. The District's General Manager, or designated representative, is hereby authorized and directed to implement the water conservation and water supply shortage stages, along with the enforcement provisions of this Ordinance, as necessary.

SECTION 7. Definitions. The following words and phrases whenever used in this Ordinance have the meaning defined in this section:

- A. “Agricultural use” means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial or community purposes.
- B. “Decorative water feature” means a water feature that exists for decorative or aesthetic purposes and not intended for recreational uses, such as pools or spas.
- C. “Incidental runoff” means unintended amounts (volume) of runoff, such as unintended, minimal overspray or weepage from sprinklers that escapes the area of intended uses. Water leaving an intended use area is not considered incidental if it is part of the facility or system

design, if it is due to excessive applications, if it is due to intentional overflow or application, or if it is due to negligence.

D. "Landscape irrigation system" means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.

E. "Potable water" means water which is suitable for drinking.

F. "Non-potable water" means water that is not suitable for drinking.

G. "Recreational water feature" means a water feature intended for recreation, such as a swimming pool or spa.

H. "Recycled water" means the reclamation and reuse of non-potable water for beneficial use as defined in Title 22 of the California Code of Regulations.

I. "Single pass cooling systems" means equipment where water is circulated only once to cool equipment before being disposed.

SECTION 8. Permanent Water Conservation Best Management Practices. The District's Best Management Practices ("BMPs") are in effect at all times and are permanent. Water Conservation BMPs have been established to conserve water, prevent the waste or unreasonable use of water, and preserve the District's water supplies, which all contribute to ongoing structural water savings. Violations of this section will be considered waste and an unreasonable use of water.

A. Limits on Irrigation Practices.

- a) Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 8:00 a.m. and 6:00 p.m. Exceptions apply when:
 - i) Using a hand-held bucket, or similar container, or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device;
 - ii) Watering for very short periods of time for the express purpose of adjusting or repairing an irrigation system;
 - iii) Using drip irrigation system; and
 - iv) Watering limited to the establishment period of a new landscape.
- b) Limiting Incidental Runoff: Watering or irrigating of any lawn, landscape or other vegetated area with any water in a manner that causes or allows more than incidental water flow or runoff onto an adjoining property, non-irrigated area, private and public sidewalk, walkway, driveway, street, roadway, parking lot, or structure is prohibited.
- c) No Irrigation of Turf on Public Medians: Watering or irrigating of any lawn or turf on public street medians with potable water is prohibited.
- d) No Irrigation During or After Rainfall: Watering or irrigating turf and ornamental landscape is prohibited during and within 48 hours following measurable rainfall of at least one quarter inch of rain as measured by a local National Weather Service or California Irrigation Management Information System (CIMIS) weather station.

- B. No Washing Down Hard or Paved Surfaces: Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios, or alleys with any water, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.
- C. Obligation to Fix Leaks, Breaks or Malfunctions: Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the District, is prohibited.
- D. Re-circulating Water Required for Decorative Water Features: Operating and maintaining a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
- E. Limits on Washing Vehicles: Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat, or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.
- F. Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services: Hotels, motels, and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.
- G. No Installation of Single Pass Cooling Systems: Installation of single pass cooling systems is prohibited in buildings requesting new water service.
- H. No Installation of Non-re-circulating Water Systems in Commercial Car Wash and Laundry Systems: Installation or operation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
- I. Restaurants Required to Use Water Conserving Dish Wash Spray Valves: Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.
- J. Rate Structure Demand Management: Water budgets established by the District under the water budget-based tiered pricing structure will be limited to the amount that is reasonable for the customer's needs and property characteristics and will exclude wasteful use, with rates within each tier established based on the actual cost of service within each tier. Any

adjustments to the pricing structure would require conformance to the requirements of Proposition 218.

SECTION 9. Water Supply Shortage Stages. The following are the stages of water shortage which may be declared by the Board in the manner prescribed by applicable provisions of the California Water Code, the approximate ranges of shortage conditions the stages represent, and the generalized actions to reduce demand. The shortage stages (stages 1 - 6) shall take effect upon implementation by the Board in accordance with Section 10. Reference is made to the WSCP for a more detailed discussion of the water shortage response actions or restrictions the District may implement during a water shortage resulting from drought or system interruptions. In the implementation of response actions or restrictions on potable water service through the declaration of a shortage level, the District will determine and set forth how and to what extent, if any, such actions or restrictions, or different actions or restrictions, will be applied to non-potable water services supplied by the District. The permanent water conservation BMPs in Section 8 that are in effect during normal water supply conditions shall continue to be in effect should a water shortage be declared by the District.

Water Shortage Stage	Water Shortage Condition	Percent Shortage
Stage 1	Water Shortage Warning	1 to 10%
Stage 2	Moderate Water Shortage	Up to 20%
Stage 3	Significant Water Shortage	Up to 30%
Stage 4	Severe Water Shortage	Up to 40%
Stage 5	Critical Water Shortage	Up to 50%
Stage 6	Emergency Water Shortage	Over 50%

A. **Stage 1 (Water Shortage Warning): 1 to 10% shortage.** Shortage response actions selected would be designed to achieve the following voluntary actions to reduce demand:

- Increase public awareness of the water supply situation and conservation opportunities;
- Increase outdoor water use efficiency (e.g., reduce over-irrigation);
- Identify and reduce over-budget water use; and
- Fix water leaks within 72 hours.

B. **Stage 2 (Moderate Water Shortage): up to 20% shortage.** Shortage response actions selected would be designed to incorporate the objectives listed under Stage 1 and achieve the following actions to reduce water use:

- Increase public awareness of the water supply situation while leveraging regional outreach and marketing;
- Target communication and response actions to potable irrigation customers;
- Expand conservation programs and projects, including workshops; and
- Expand water conservation BMPs and water restrictions related to irrigation, filling of decorative water features and man-made lakes, serving water at restaurants, and fixing leaks within 48 hours.

C. **Stage 3 (Significant Water Shortage): up to 30% shortage.** Shortage response actions selected would be designed to incorporate the objectives listed under Stage 2 and achieve the following actions to reduce water use:

- Implement a customized public outreach campaign to increase community awareness;
- Targeted outreach to high use customers;
- Enhance water conservation activities, marketing, and incentives;
- Expand water conservation BMPs and water restrictions related to outdoor irrigation and fixing of leaks within 24 hours; and
- District to limit non-required hydrant flushing and line flushing with potable water.

D. **Stage 4 (Severe Water Shortage): up to 40% shortage.** Shortage response actions selected would be designed to incorporate the objectives listed under Stage 3 and achieve the following actions to reduce water use:

- Further reduce or eliminate discretionary uses, such as irrigation and vehicle washing;
- Elimination of specific municipal uses such as non-required hydrant flushing or street cleaning and filling of recreational water features or man-made lakes;
- Limit or suspend issuing or providing new potable water services in addition to suspending annexations to the District's service area.

E. **Stage 5 (Critical Water Shortage): up to 50% shortage.** Shortage response actions selected would be designed to incorporate the objectives listed under Stage 4 and achieve the following actions to reduce water use:

- Greatly expand limits to irrigation;
- Prohibit the application of potable water to irrigate turfgrass;
- Vigorously target over-budget accounts with education and enhanced assistance; and
- Use of flow restrictors on over-budget accounts that are non-responsive to outreach.

F. **Stage 6 (Emergency Water Shortage): over 50% shortage.** Shortage response actions selected would be designed to incorporate the objectives listed under Stage 5 and achieve the following actions to reduce water use:

- As deemed necessary, an allocation of water supply under a water supply emergency condition, beyond the District's WSCP defined actions, may be implemented when water supply condition dictate necessity;
- Possible discontinuation of non-health and safety services in order to achieve the necessary demand reductions; and
- Other mandatory restrictions and enforcement, as necessary.

G. **General Manager Emergency Declaration:** If the General Manager determines that a sudden event has, or threatens to, significantly diminish the reliability or quality of the District's water supply, the General Manager may declare a catastrophic water supply shortage and impose whatever emergency water allocation or conservation actions deemed necessary, in the General Manager's professional judgment, to protect the reliability and quality of the District's water supply, until the emergency passes or the District takes other action.

SECTION 10. Water Supply Shortage Stage Implementation. The District’s WSCP details the procedures and process the District takes to conduct its annual Water Supply Reliability Assessment (WSRA), as required by the Water Code 10632(a)(2). The annual WSRA must be submitted to DWR by July 1 of every year, beginning in 2022. The WSRA will serve to inform the Board if a water supply shortage is anticipated and the extent of the conservation required through implementation or termination of particular water shortage stages in order for the District to prudently plan for and supply water to its customers. The Board may order that the appropriate stage of water shortage be implemented or terminated by resolution adopted in accordance with this Ordinance. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices and shall post a notice on the District’s Web site at www.smwd.com. Adoption of a resolution terminating any stage shall be made at a public meeting of the Board. The water shortage response actions applicable to Water Shortage Stages 1, 2, 3, 4, 5, or 6 shall take effect on the tenth (10) day after the date the shortage stage is declared. The District’s WSCP outlines the communication procedures and strategies to occur should the Board declare a water shortage.

SECTION 11. Exemptions. Customers may be exempted from application of this Ordinance for a certain type of use if the General Manager issues a permit allowing such use and if such permit issuance is based on a finding that enforcement of the applicable restriction would (1) cause an unnecessary and undue hardship to the customer applying for such permit or the public, or (2) cause or threaten an immediate emergency condition affecting the health, sanitation, fire protection, or safety of the customer or the public; or (3) cause the customer to violate a term or condition in a permit issued by a state or federal water agency. The General Manager may require the installation and use of such water conservation devices or practices as they deem appropriate as a condition of the exemption permit.

SECTION 12. Enforcement. The District intends to provide education and notice to its customers of the terms of the conservation stage then currently in place. The District’s customers have previously responded to meet the water needs of the District. However, in the event active enforcement is required any customer who violates the provisions of this Ordinance by either excess use of water or by specific violation of one or more of the applicable water use restrictions for a particular water shortage stage may be cited by the General Manager, or designated representative, in accordance with the following provisions.

A. Progressive Enforcement Measures. The District may impose progressive enforcement measures for repeated, willful violations as follows:

First Violation: Citation

Second Violation: Penalty of \$100 placed on the water bill.

Third Violation: Penalty of \$250 placed on the water bill.

Fourth Violation: Penalty of \$500 placed on the water bill, and after a 15 day written notification, the customer shall also be subject to a flow restriction. A person or entity that violates this Ordinance is responsible for payment of the District’s charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the District’s schedule of charges then in effect. The charge for installing and/or removing any flow restricting

device must be paid to the District before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

B. Misdemeanor. In addition to, or as an alternative to the enforcement measures provided herein, or any other applicable civil or criminal remedies, violations of this Ordinance may be prosecuted as a misdemeanor and punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

C. Discontinuing Service. In addition to any fines, and other remedies, the District, after a fifteen (15) day written notification, may disconnect a customer's water service for willful violations of this Ordinance, subject to the appeals process described herein.

D. Leak Shut Off for Dedicated Irrigation Meter. In instances where a leak is observed on the customer's side of a dedicated irrigation service or system, the District may immediately shut off such system and/or meter and may issue a notice of violation as provided for in this Ordinance. Water service may not be reinstated until such leak is repaired.

E. Administrative Procedures for Imposing Fines.

1. Notice. If the General Manager, or designated representative, determines to impose a fine on a person ("violator") who has violated any provision of this Ordinance, a written notice of the violation will be sent to the violator. The notice shall provide in sufficient detail the violation(s), the amount of the penalty being imposed, and the date or times by which the penalty shall be paid to the District. The notice shall notify the violator that the fine will be imposed in the violator's next water bill and that the violator may appeal the District's imposition of the fine in writing within ten (10) calendar days of the date of said notice. Service of any notice required under this Section shall be made by the following means:

- i. Personal service in the same manner as a summons in a civil action; or
- ii. Registered United States mail, which service shall be completed at the time of deposit into the United States mail.

F. Appeal. Within ten (10) calendar days of the date of such notice described in Section 12, subdivision (E) from the District, the customer may appeal the proposed fine to the General Manager in writing, setting forth a description of the violation, any cure measures undertaken, the amount of the fine, the basis for the appeal, and the remedy sought. The General Manager, or designated representative, shall consider the appeal and shall issue a written decision to the customer. If the customer fails to appeal the ten (10) calendar days period specified in the District's notice to the customer, the customer shall lose its right to appeal the fine.

G. Appeals to District Board of Directors. A customer may appeal a decision of the General Manager on an appeal of an administrative fine to the District Board of Directors within ten (10) days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the District Board of Directors shall act as the approval

authority and review the appeal de novo (granting no deference to the prior decision of the General Manager). The decision of the District Board of Directors is final.

i. The appeals procedures provided in this Section 12, subdivisions (F) and (G) shall be applicable to all administrative decisions related to this Ordinance.

H. Fund for Conservation. All fines collected by the District pursuant to this Ordinance shall be used by the District to further water conservation efforts in the District.

I. Separate Offenses. Each day that a violation of this Ordinance occurs is a separate offense. All remedies provided herein shall be cumulative and not exclusive.

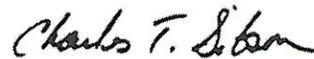
SECTION 13. Rules and Regulations for Water Service. The provisions of this Ordinance are in addition to all other District Rules and Regulations for Water Service, and in the event of a conflict between this Ordinance and other rules and regulations relating to the same subject matter, the conflict shall, insofar as practical, be resolved to implement the purposes of this Ordinance.

SECTION 14. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance, and those shall remain in full force and effect.

SECTION 15. CEQA Exemption. The District finds that this Ordinance and actions taken hereafter pursuant to this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(4) and California Code of Regulations, Title 14, Section 15301. The General Manager of the District is hereby authorized and directed to file a Notice of Exemption as soon as possible following adoption of this Ordinance.

SECTION 16. Effective Date and Publication. This Ordinance shall become effective as of the date of adoption and shall be published within ten days of adoption, pursuant to the California Water Code Section 376.

ADOPTED, SIGNED AND APPROVED this 5th day of May 2021.



Charles T. Gibson
President of the Board of Directors
Santa Margarita Water District

ATTEST:



Kelly Radvansky
Secretary to the Board of Directors

