

SAN LORENZO VALLEY WATER DISTRICT

ORDINANCE NO. 105

SUBJECT: WATER SHORTAGE EMERGENCY

WHEREAS, Article 10, Section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for public welfare; and

WHEREAS, on January 17, 2014 Governor Brown declared a State of Emergency to exist in California due to prolonged drought conditions; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

WHEREAS, San Lorenzo Valley Water District system draws exclusively on local sources of supply, whose yield varies from year to year depending on the amount of rainfall received; and

WHEREAS, the District's water system is susceptible to water shortages in dry years or in periods of prolonged regional drought when water conditions characterized by low surface flows in stream sources and low levels in local aquifers', reduce the available supply to a level that cannot support seasonal water demand; and

WHEREAS, California Water Code Sections 350 et seq. authorize water suppliers, after holding a properly noticed public hearing, and after making certain findings, to declare a water shortage (emergency) and to adopt such regulations and restrictions to conserve the water supply for the greatest public benefit with particular regard for domestic use, sanitation, and fire protection; and

WHEREAS, the water conservation measures and progressive restrictions on water use and method of use set forth herein provide an effective and immediately available means to conserve water which is essential during periods of water shortage to ensure a reliable and sustainable minimum supply of water for public health, safety, and welfare; to preserve valuable limited water storage capacity; to avoid depleting water storage to an unacceptably low level; and to lessen the possibility of experiencing more critical shortages if dry conditions continue or worsen; and

WHEREAS, the usage regulations and restrictions hereinafter established will equitably spread the burden of restricted and prohibited usage over all San Lorenzo Valley Water District customers and other consumers; and

WHEREAS, the purposes of this Ordinance are to conserve the water supply of the San Lorenzo Valley Water District's for the greatest public benefit, to mitigate the effects of a water

supply shortage on public health and safety and economic activity, and to budget water use so that a reliable and sustainable minimum supply of water will be available for the most essential purposes for the entire duration of the water shortage;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the San Lorenzo Valley Water District as follows:

Section 1. Declaration of Necessity and Intent: This Ordinance establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the San Lorenzo Valley Water District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare.

Section 2. Declaration of Water Shortage: The provisions of this Ordinance shall take effect whenever the District Manager, upon analysis of the District's water supplies, finds and determines that a water shortage exists or is imminent within District's service area and a declaration of a water shortage is made by a resolution of the Board of Directors, and they shall remain in effect for the duration of the water shortage set forth in the resolution.

Section 3. Application of Regulations: The provisions of this Ordinance shall apply to any person in the use of any water provided by the San Lorenzo Valley Water District.

Section 4. Precedence of Regulations. Where other provisions of the San Lorenzo Valley Water District, whether enacted prior or subsequent to this Ordinance, are inconsistent with the provisions of this Ordinance, the provisions of this Ordinance shall supersede and control for the duration of the water shortage set forth in the resolution of the Board of Directors.

Section 5. Water Waste Prohibitions. It shall be unlawful during any water shortage stage for any person, firm, partnership, association, corporation, political entity or any other water customer to use water for any of the following:

- (a) Fire Hydrants. Use of water from any fire hydrant, unless specifically authorized by the District, except by regularly constituted fire protection agencies for fire suppression purposes.
- (b) Watering/Irrigation. The watering of grass, lawn, groundcover, shrubbery, open ground, crops and trees, including agricultural irrigation, in a manner or to an extent that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, gutter or ditch.
- (c) Plumbing Leaks. The escape of water through leaks, breaks, or other malfunctions within the water user's plumbing or distribution system for any period of time after such break or leak should have reasonably been discovered and corrected. It shall be presumed that a period of twenty-four hours after the water user discovers such break, leak or malfunction, or receives notice from the District of such condition, whichever occurs first, is a reasonable time within which to correct such condition or to make arrangements for correction.
- (d) Washing of Exterior Surfaces. The washing of sidewalks, walkways, driveways, parking lots, patios, or other exterior surfaces unless the hose is equipped with an automatic shutoff nozzle.

- (e) **Cleaning of Structures and Vehicles.** The cleaning of building exteriors, mobile homes, cars, boats, and recreational vehicles unless the hose is equipped with an automatic shutoff nozzle.
- (f) **Fountains and Decorative Water Features.** The operation of a water fountain or other decorative water feature that does not use re-circulated water.
- (g) **Construction.** The use of potable water for dust control or soil compaction purposes in construction activities where there is a reasonably available source of reclaimed water appropriate for such use.
- (h) **The indiscriminate running of water or washing with water, not otherwise prohibited in this section which is wasteful and without reasonable purpose.**

Section 6. Stage 1 Water Shortage. The District Manager is empowered to issue a Stage 1 Water Shortage notification and to enforce the water shortage restrictions in this section upon finding that the magnitude of an anticipated water shortage will be ten (10) percent or less, and a minimal consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 1 Water Shortage, the District will enforce the following water shortage restrictions. During a Phase 1 Water Shortage it shall be unlawful for any person, firm, partnership, association, corporation, political entity or any other water District customer:

1. To water or irrigate lawn, landscape, or other vegetated areas between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;
2. To use a hose that is not equipped with a shutoff nozzle;
3. To use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;
4. To initially fill or to drain and refill residential swimming pools;
5. To serve water in a restaurant or other commercial food service establishment except upon the request of a patron; and/or
6. To operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens.

Section 7. Stage 2 Water Shortage. The District Manager is empowered to issue a Stage 2 Water Shortage notification and to enforce the water shortage restrictions in this section upon finding that the magnitude of an anticipated water shortage will be between ten (10) percent and twenty (20) percent, and a moderate consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 2 Water Shortage, the District will enforce the following water shortage restrictions. During a Stage 2 Water Shortage it shall be unlawful for any person, firm, partnership, association, corporation, political body or other District customer:

1. To water or irrigate lawn, landscape, or other vegetated areas between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray

- irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;
2. To use a hose that is not equipped with a shutoff nozzle;
 3. To use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;
 4. To initially fill or to drain and refill residential swimming pools;
 5. To serve water in a restaurant or other commercial food service establishment except upon the request of a patron;
 6. To operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;
 7. To water or irrigate lawn, landscape, or other vegetated areas on days of the week other than the days of the week authorized and noticed by the District Manager, except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system. Hourly restrictions set forth in subsection 1 continue to apply on authorized watering days. This provision shall not apply to commercial growers/nurseries or to residential vegetable gardens/edible plantings watered with a hose equipped with a shutoff nozzle;
 8. To water or irrigate lawn, landscape, or other vegetated area using an automatic irrigation system for more than fifteen minutes per watering station per assigned day. This provision shall not apply to automatic irrigation systems exclusively using low output sprinkler equipment, including rotors, stream rotors, or micro-spray systems; and/or
 9. To wash the exterior of dwellings, buildings or structures (with the exception of window washing and preparation of property for painting or for sale);

Section 8. Stage 3 Water Shortage. The District Manager is empowered to issue a Stage 3 Water Shortage notification and to enforce the water shortage restrictions in this section upon finding that the magnitude of an anticipated water shortage will be between twenty (20) percent and thirty (30) percent, and a significant consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 3 Water Shortage, the District will enforce the following water shortage restrictions. During Stage 3 Water Shortage it shall be unlawful for any person, firm, partnership, association, corporation, political body or other District customer:

1. To water or irrigate lawn, landscape, or other vegetated areas between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;
2. To use a hose that is not equipped with a shutoff nozzle;
3. To use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or

other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;

4. To initially fill or to drain and refill any swimming pools, outdoor spas, wading pools, and ornamental water features;

5. To serve water in a restaurant or other commercial food service establishment except upon the request of a patron;

6. To operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;

7. To water or irrigate lawn, landscape, or other vegetated area on days of the week other than the specified day(s) of the week authorized and noticed by the District Manager, except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system. Hourly restrictions set forth in subsection 1 continue to apply on authorized watering days. This provision shall not apply to commercial growers/nurseries or to residential vegetable gardens/edible plantings watered with a hose equipped with a shutoff nozzle;

8. To water or irrigate lawn, landscape, or other vegetated area using an automatic irrigation system for more than ten minutes per watering station per assigned day. This provision shall not apply to automatic irrigation systems exclusively using low output sprinkler equipment, including rotors, stream rotors, or micro-spray systems;

9. To wash the exterior of dwellings, buildings or structures (with the exception of window washing and preparation of property for painting or for sale); and/or

10. To violate residential customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the District Manager.

Section 9. Stage 4 Water Shortage. The District Manager is empowered to issue a Stage 4 Water Shortage notification and to enforce the water shortage restrictions in this section upon finding that the magnitude of an anticipated water shortage will be greater than thirty (30) percent and an extraordinary consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water supply conditions. In a Stage 4 water shortage, the District will enforce the following water shortage restrictions. During Stage 4 Water Shortage it shall be unlawful for any person, firm, partnership, association, corporation, political body or other water department customer:

1. To water or irrigate landscape or other vegetated area between the hours of 10:00 a.m. and 5:00 p.m., except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system;

2. To use a hose that is not equipped with a shutoff nozzle;

3. To use potable water to wash down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking lots, tennis courts, patios, or other paved surfaces, except when it is necessary to alleviate safety or sanitation hazards or to prepare paved surfaces for sealing;

4. To fill or to top off any swimming pools, outdoor spas, wading pools, and ornamental water features;
5. To serve water in a restaurant or other commercial food service establishment except upon the request of a patron;
6. To operate a hotel, motel or other commercial lodging establishment without offering patrons the option to forego the daily laundering of towels, sheets and linens;
7. To water or irrigate landscape or other vegetated area on days of the week other than the specified day(s) of the week authorized and publicized by the District Manager, except when performed with a bucket or watering can, or by use of a drip irrigation system or similar low volume, nonspray irrigation equipment, or for very short periods of time for the express purpose of allowing landscape contractors to adjust or repair an irrigation system. Hourly restrictions set forth in subsection 1 continue to apply on authorized watering days. This provision shall not apply to commercial growers/nurseries or to residential vegetable gardens/edible plantings watered with a hose equipped with a shutoff nozzle;
8. To water landscapes using automatic irrigation systems for more than ten minutes per watering station per assigned day. This provision does not apply to automatic irrigation systems using water-efficient devices, including but not limited to weather-based controllers, drip/micro-irrigation systems and stream rotor sprinklers;
9. To wash the exterior of dwellings, buildings or structures (with the exception of window washing and preparation of property for painting or for sale);
10. To violate residential customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the District Manager;
11. To violate commercial customer water rationing regulations, including regulations intended to preclude excessive water usage and specifying maximum water usage limitations, issued by the District;
12. To water lawns or turf, unless such watering is authorized by the District Manager in accordance with a landscape irrigation water;
13. To install new landscaping which requires any irrigation or watering;
14. To wash or clean vehicles, including but not limited to automobiles, trucks, vans, buses, motorcycles, boats, or trailers, including the washing of fleet vehicles; and/or
15. To exercise any rights conferred by hydrant and bulk water permits that were issued prior to the severe water shortage emergency declaration absent special permission granted by the District Manager. Said special permission may be granted only for projects necessary to protect the public health, safety and welfare where no alternative to potable water exists and for emergency response purposes.

Section 10. Exceptions. The District Manager, upon application made in writing by a customer on a form promulgated by the District and accompanied by supporting documentation, shall be authorized to issue an exception from the strict application of any restriction, regulation or prohibition enforced pursuant to this Ordinance, upon the customer's production of substantial evidence demonstrating the existence of one or more of the following circumstances that are particular to that customer and which are not generally shared by other District customers:

1. Failure to approve the requested exception would cause a condition having an adverse effect on the health, sanitation, fire protection, or safety of the customer or members of the public served by the customer;
2. Strict application of the subject restriction, regulation or prohibition would impose a severe or undue hardship on a particular business customer or render it infeasible for a particular business customer or class of business customers to remain in operation;
3. Alternative restrictions to which the customer is willing to adhere are available that would achieve the same level of demand reduction as the restriction for which an exception is being sought and such alternative restrictions are enforceable by the District;
4. Circumstances concerning the customer's property or business have changed since the implementation of the subject restriction warranting a change in the customer's water usage allocation;
5. A health care facility customer using industry best management practices is eligible for an exception upon demonstrating that the subject restriction, regulation or prohibition is interfering with or preventing it from providing health care service to its customers in accordance with industry hygiene, sanitation and health care standards; or
6. A business customer has already implemented environmental sustainability measures that have reduced water consumption to the maximum extent feasible. As used in this subsection the term "environmental sustainability measures" refers to installation of high efficiency plumbing fixtures, devices, equipment, and appliances, recycled water systems, and landscaping consisting exclusively of low-water-using plant materials using drip or similar high efficiency, nonspray irrigation systems, or to buildings that are designed, built, and continuously operated according to Leadership in Energy and Environmental Design (LEED) certification standards.

Section 11. Water Shortage Appeal Board.

- (a) A Water Shortage Appeal Board is hereby established and shall be eligible to convene upon the District Manager's issuance of any water shortage notification declaration the implementation of water shortage restrictions pursuant to this Ordinance. Thereafter, the Water Shortage Appeal Board will remain available to convene for as long as the water shortage remains in effect.
- (b) The Water Shortage Appeal Board shall be comprised of three (3) members of the Board of Directors, and shall be appointed thereto by the President of the Board of Directors.
- (c) Any customer who considers an action taken by the District Manager or an enforcement official under the provisions of this Ordinance, including actions on exception applications and the assessment of administrative penalties, to have been erroneously taken or issued may appeal that action or penalty to the Water Shortage Appeal Board in the following manner:

1. The appeal shall be made in writing, shall state the nature of the appeal specifying the action or penalty that is being appealed and the basis upon which the action or penalty is alleged to be in error. Penalty appeals shall include a copy of the notice of violation;
2. An appeal, to be effective, must be received by the District Manager not later than ten (10) business days following the date of the notice of violation or the date that the District Manager took the action which is the subject of the appeal;
 - (A) A water service resident who is not the account customer may notify the District of his or her intention to file a petition to force the resident's account customer to appeal an excess water use penalty within ten business days following the penalty;
 - (B) If the District has been given a notice of intention to file a petition per subsection (c)(2)(A) by a water service resident who is not an account customer, the appeal from the account customer must be received within fifteen business days after the account customer has been petitioned by the resident;
3. The District Manager shall schedule the appeal for consideration by the Water Shortage Appeal Board at a Water Shortage Appeal Board meeting. The Water Shortage Appeal Board shall hear the appeal within ninety (90) days of the date of the appeal and issue its decision within thirty days of the date of the hearing;
4. The decision of the Water Shortage Appeal Board shall be final. In ruling on appeals, the Water Shortage Appeal Board shall strictly apply the provisions of this Ordinance, and shall not impose or grant terms and conditions not otherwise authorized by this Ordinance.

Section 12. Administrative Enforcement.

- (a) Any person, firm, partnership, association, corporation, political entity or other water customer violating any provision of this Ordinance may be assessed an administrative penalty.
- (b) Each and every day a violation of this Ordinance constitutes a separate and distinct offense for which an administrative penalty may be assessed.
- (c) Penalties. The purpose of the administrative penalties assessed pursuant to this section is to assure future compliance by the cited customer through the imposition of increasingly significant penalties so as to create a meaningful disincentive to commit future violations. In acknowledgment of the fact that the District's water is a scarce and irreplaceable commodity and that this Ordinance is intended to equitably distribute that commodity among District customers and to assure that, to the extent feasible, District water is conserved and used only for purposes deemed necessary for public health and safety, the penalty schedule herein prescribed is not to be construed as creating a "water pricing" structure pursuant to which customers may elect to pay for additional water at significantly higher rates. To this end, a customer's repeated violation of this Ordinance shall result in either the installation of a flow restriction device or disconnection of the customer's property from the District's water service system at the customer's cost.

(d) Administrative penalties for failure to comply with water waste prohibitions requirements in Section 5, and mandatory water use restrictions and regulations commencing with a Stage 1 Water Shortage in Section 6 are as follows:

1. First Offense. Written notice of violation and opportunity to correct violation.
2. Second Offense. A second violation within the preceding twelve calendar months is punishable by a fine not to exceed one hundred dollars.
3. Third Offense. A third violation within the preceding twelve calendar months is punishable by a fine not to exceed two hundred fifty dollars.
4. Fourth Offense. A fourth violation within the preceding twelve calendar months is punishable by a fine not to exceed five hundred dollars. In addition to any fines, the District Manager may order a water flow restrictor device be installed.
5. Discontinuing Service. In addition to any fines and the installation of a water flow restrictor, the District Manager may disconnect a customer's water service for willful violations of mandatory restrictions and regulations in this Ordinance. Upon disconnection of water service, a written notice shall be served upon the customer which shall state the time, place, and general description of the prohibited or restricted activity and the method by which reconnection can be made.

(e) Excessive Water Use Penalties. An excessive use penalty shall be assessed where the customer, during any given billing cycle, uses more than the customer's water allotment per the District's water rationing regulations issued pursuant to this Ordinance commencing with Stage 3 in Section 8. Excess use penalties shall be in addition to ordinary water consumption charges, as follows:

1. One percent to ten percent over customer rationing allotment: twenty-five dollars/CCF.
2. More than ten percent over customer rationing allotment: fifty dollars/CCF.
3. In addition to any excess use penalties, the District Manager may order a water flow restrictor device be installed and/or may disconnect a customer's water service for willful violations of the water rationing regulations in this Ordinance. Upon disconnection of water service, a written notice shall be served upon the customer which shall state the time, place, and general description of the prohibited or restricted activity and the method by which reconnection can be made.

(f) Cost of Flow Restrictor and Disconnecting Service. A person or entity that violates this Ordinance is responsible for payment of charges for installing and/or removing any flow-restricting device and for disconnecting and/or reconnecting. The charge for installing and/or removing any flow restricting device must be paid before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

(g) Notice and Hearing. The District Manager will issue a notice of violation by mail or personal delivery at least ten business days before taking any enforcement action described in

subsection (d). Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the notice of violation by filing a written notice of appeal with the District no later than the close of the business day before the date scheduled for enforcement action, accompanied by a twenty-five dollar (\$25.00) appeal fee. Any notice of violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the District will mail written notice of the hearing date to the customer at least ten days before the date of the hearing. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the District Manager may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violation and the current declared water shortage condition.

Section 12. Additional Enforcement Authority. In addition to the remedies referenced above, the District Manager is empowered to pursue any additional remedies necessary, including, but not limited to, other administrative, criminal, and civil remedies to correct a violation of this Ordinance.

Section 13. Severability. If any portion of this Ordinance is held to be unconstitutional, it is the intent of the Board of Directors that such portion of the chapter be severable from the remainder and that the remainder be given full force and effect.

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PASSED AND ADOPTED by the Board of Directors of the San Lorenzo Valley Water District, County of Santa Cruz, State of California, on the 3rd day of April, 2014, by the following vote of the members thereof:

AYES: Bruce, Prather, Rapoza Vierra, Brown
NOES: None
ABSTAIN: None
ABSENT: None

James A. Mueller
Acting District Secretary
San Lorenzo Valley Water District