

ORDINANCE NO. 16-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF CONTRA COSTA WATER DISTRICT ESTABLISHING PERMANENT PROHIBITIONS ON WATER WASTE AND FINES FOR VIOLATIONS IN SUPPORT OF LONG-TERM CONSERVATION; AND RESCINDING ORDINANCE 15-01, WHICH ESTABLISHED A DROUGHT MANAGEMENT PROGRAM, CONSERVATION TARGETS AND TEMPORARY PRICING ADJUSTMENTS

WHEREAS, the Contra Costa Water District (District) is a County Water District organized and existing pursuant to the County Water District Law, Division 12 of the California Water Code beginning with section 30000 and is empowered thereunder and under article XI, section 9 to provide raw (untreated) and treated water service to its customers in northern, eastern, and central Contra Costa County; and

WHEREAS, article X, 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 the public welfare, and further declares that it is self-executing; and

WHEREAS, the District is authorized pursuant to sections 31024, 31026, 31027, 31028, 31029, and 31035 of the County Water District Law, and California Water Code sections 350 et seq., and sections 375 et seq., to establish and enforce rules and regulations for the sale, distribution, and use of water; and to enact rules and regulations to restrict the use of water during any water emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of District water or the use of District water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the District and may prohibit use of such water during such periods for specific uses which the District may from time to time find to be non-essential; and

WHEREAS, District Regulations 5.04.020, 5.04.030, 5.04.060, and 5.04.070 provide further authority for the District's adoption of rules and regulations regarding the use of water

delivered by the District, the prevention of waste or unreasonable use, and compliance with District rules and regulations; and

WHEREAS, the California Governor formally declared a condition of statewide drought related emergency conditions on January 17, 2014, encouraging local water agencies to promote water conservation, and on April 25, 2014, by Executive Order, Governor Brown announced that he was strengthening the State's ability to respond to ongoing drought conditions and directed the State Water Resources Control Board (SWRCB) to notify urban water suppliers not already implementing drought contingency plans to limit outdoor irrigation and other wasteful practices; and

WHEREAS, on July 15, 2014, the SWRCB approved emergency regulations mandating that residents and water suppliers take certain action relative to water use and use of potable water for irrigation purposes and on March 17, 2015, the SWRCB, in light of California entering a fourth year of extraordinary drought conditions, reauthorized the emergency regulations adopted in 2014, and approved additional mandates requiring water suppliers and businesses to take certain further actions relative to water use and use of potable water for irrigation purposes, including the imposition of fines of up to \$500 per day for each violation of the SWRCB emergency regulations, and the imposition of fines of up to \$10,000 per day against urban water suppliers found to be non-compliant with the SWRCB rules and regulations; and

WHEREAS, the SWRCB approved additional regulations on May 5, 2015 to implement Executive Order B-29-15, which were revised on March 1, 2016 and which required the District to achieve an overall 25% reduction in potable urban water usage for its retail customers as compared to 2013 baseline usage; and

WHEREAS, the Governor formally declared on May 9, 2016, by Executive Order B-37-16, that despite winter precipitation, a continued state of emergency exists due to water shortage and drought conditions which may persist in some parts of the state into 2017 and beyond; and directed the SWRCB to update temporary emergency water restrictions and transition to

permanent, long-term improvements in water use by taking actions to use water more wisely, eliminate water waste, strengthen local drought resilience, and improve agricultural water use efficiency and drought planning; and

WHEREAS, at its May 18, 2016 meeting, the SWRCB is anticipated to replace the existing state-imposed mandatory conservation standards with locally-developed standards based on local water supply conditions and supply availability, and that local urban water agencies will be required to self-certify their water supply availability assuming three additional dry water years and customer demands based on 2013 and 2014 averages; and

WHEREAS, the amended regulation would take effect on June 1, 2016 and remain in effect through January 2017, or longer should the regulations be extended by action of the Governor or SWRCB; and

WHEREAS, the United States Bureau of Reclamation (Reclamation) has announced its initial 2016 water year allocations for the Central Valley Project (CVP) and has forecast that the water supply available to the District be 100% of its contracted allocation at 195,000 acre-feet, which is sufficient to meet customer demands and allow filling of Los Vaqueros Reservoir ; and

WHEREAS, continuing drought conditions within the State contribute to uncertainty regarding regulatory conditions in the Sacramento-San Joaquin Delta that can affect the amount and quality of water that can be legally moved from Reclamation's reservoirs to pumping plants in the Delta, including the District's; and

WHEREAS, as of the date of enactment of this ordinance, the District believes that, should there be three additional dry years, anticipated water supplies, along with encouraging conservation and the adoption of permanent waste prevention measures within its Code of Regulations will be sufficient to support self-certification and ensure sufficient water is available for domestic, municipal and industrial water needs of the District's customers.

NOW THEREFORE BE IT ORDAINED by the Board of Directors of the Contra Costa Water District, in accordance with the applicable provisions of the California Constitution, the County Water District Law, and the Contra Costa Water District Code of Regulations, that the Board hereby finds, determines and declares:

1. Each of the facts recited above is incorporated herein; and
2. Based upon the facts recited above and upon the authority contained in Water Code sections 31026 et seq., and in sections 375 et seq., it is desired to adopt and enforce a water conservation program to reduce the quantity of water used within the District for the purpose of conserving the available water supply and preventing waste and unreasonable use of water; and
3. The District has exceeded current SWRCB conservation requirements established to meet the State-mandated water use reduction targets.
4. Measures to prevent waste and unreasonable use of water are necessary to continue to manage demands to ensure that the water needs of District customers can be met and that water supplies are not depleted in the event of three subsequent dry years.

NOW THEREFORE BE IT FURTHER ORDAINED by the Board of Directors of the Contra Costa Water District as follows:

1. Pursuant to SWRCB regulations, the District intends to self-certify that sufficient water supplies are available to meet anticipated demands in conjunction with encouraging conservation and adopted waste prevention measures.
2. The Temporary Conservation Pricing increase of \$0.50 per unit (748 gallons) in the treated water quantity charge, and of \$0.25 per 1,000 gallons in the untreated water quantity charge implemented in 2015 to promote water conservation, is hereby rescinded, which rescission is effective for all water meters read on or after June 6, 2016.

3. Consistent with SWRCB reporting requirements, the baseline for determining Excess Use Charges for single family, multi-family, and irrigation accounts will continue to be based on water use that exceeds 1,000 gallons per day or a customer's baseline use for the same billing period during calendar year 2013, whichever is greater. Any account that does not have consumption history for 2013 or usage reflecting changed conditions may apply for an exception to have a usage threshold established or modified.
4. Water use prohibitions, attached hereto as Exhibit A and incorporated herein as if fully set forth, are necessary to conserve water, promote effective water supply planning, assure reasonable and beneficial use of water, prevent waste and unreasonable use of water, and prevent unreasonable methods of use of water within the District; and said water use prohibitions are necessary to assure that sufficient supplies of water will be available to meet the needs of, and to protect the health and safety of, the District's customers and other members of the public. This paragraph is not a limit on the District's authority to determine that a customer is wasting or failing to put water received from the District to reasonable and beneficial use.
5. The Board of Directors hereby authorizes the General Manager, without further action of the Board, to supplement the water use prohibitions detailed in in Exhibit A or to suspend enforcement of any prohibition, depending on existing water supply conditions or actions of the Governor or State Water Board, or as may be necessary to prevent the waste or unreasonable use of District water supplies.
6. After the publication or posting of this ordinance, as provided in California Water Code section 31027, it is a misdemeanor for any person to use or apply water received from the District contrary to or in violation of this Ordinance, or other restrictions or prohibitions on water use contained in the District Code of Regulations, and, upon notice thereof, that person shall be subject to punishment by an administrative fine of not more than two hundred fifty dollars (\$250) for a first offense, five hundred dollars (\$500) for a second offense, each administrative fine to be accompanied by an additional penalty of up to \$10

per unit of water used or applied in violation of or contrary to this ordinance, an amount to be determined in the District's sole discretion. Each and every day a violation of this exists constitutes a separate and distinct offense for which an administrative fine and penalty may be assessed. The District, in its sole discretion, may choose to provide a warning to alleged violators prior to imposing administrative fines or penalties pursuant to this ordinance, which warning shall not itself constitute a violation of the rules and regulations. Administrative fines or penalties are to be imposed pursuant to the authority provided in California Government Code section 53069.4, or such additional authority as may later be approved by the Governor pursuant to the California Emergency Services Act or Executive Order, or by action of the California Legislature.

7. Imposition of the administrative fines contained herein may be suspended by future action of the Board of Directors enacted by either an ordinance or resolution. Following any such suspension, imposition of the administrative fines may be reinstated in the same manner as the suspension was enacted.
8. The purpose of the administrative fines and penalties assessed pursuant to this Ordinance is to assure future compliance by customers through the imposition of increasingly significant fines and penalties so as to create a meaningful disincentive to commit future violations of the rules and regulations contained and referenced herein.
9. Violations of this ordinance, and the rules and regulations contained and referenced herein, shall remain subject to administrative fines and penalties, until this ordinance has been repealed. Violations pursuant to other District rules, regulations, or federal or state law shall not be affected by this section and shall continue to be enforced pursuant to their terms. The District reserves the right to pursue, in its sole discretion, any additional remedies available to it by law, including criminal, civil and administrative remedies as necessary.
10. Written applications for exceptions to, or waivers from, any provision of this ordinance, shall be submitted to the District, and may be granted in any case where the District

determines, in its sole reasonable discretion, that the applicable restriction, or prohibition may create a hazard to the health and safety of any individual or the public, or would cause undue hardship, including but not limited to, adverse economic impacts such as loss of production or jobs, or prevent compliance with a term or condition within a permit issued by a state or federal agency.

11. Denial of an application for exception or waiver may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.
12. If a customer fails to take prompt, reasonable action to stop wasteful use, after receipt of a warning, fine, or other request from the District to cease the wasteful use, the District may at its discretion suspend delivery of water to the customer or install a device to restrict the flow of water to the customer, or terminate service until the District determines, at its sole reasonable discretion, that there will be no further wasteful use of water by the customer. All applicable District fees for the installation or removal of a water restricting device or for disconnection or reconnection of service shall be paid by the customer. District determinations made pursuant to this Ordinance may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.
13. If any provision of this ordinance, including the rules and regulations referenced herein, or any part thereof, is for any reason held to be ultra vires, invalid, or unconstitutional, the remaining provisions of this ordinance shall not be affected, but shall remain in full force and effect, and to this end the provisions of this ordinance are severable.
14. The rules and regulations contained in this ordinance shall take effect immediately after its adoption pursuant to Water Code section 31027. A summary of this ordinance was published five days prior to adoption and said summary will be published again within fifteen days of this adoption in a newspaper of general circulation within the District.

15. The General Manager is authorized to cause the rules and regulations established hereby to be inserted in Title 5 of the Contra Costa Water District Code of Regulations and to effect the immediate enforcement thereof.

16. Should any rule or regulation contained or referenced herein conflict with an existing District rule or regulation, the conflicting rule or regulation contained or referenced herein shall apply during the time in which this Ordinance is in effect and operative.

17. Contra Costa Water District Ordinance 15-01 is hereby repealed and superseded in full by this Ordinance 16-01 upon this Ordinance becoming effective and operative, with the exception of the Temporary Conservation Pricing Adjustments which shall remain effective until the end of the full cycle of customer billings, and include all water meters read before June 6, 2016.

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The foregoing Ordinance was duly and regularly adopted at a meeting thereof held on the 18th of May, 2016, by the Board of Directors of Contra Costa Water District, by the following vote of the Board:

AYES: Burgh, Avila, Borba, Holdaway

NOES:

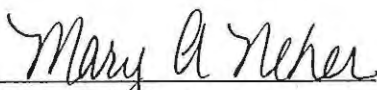
ABSTAIN:

ABSENT: Boatmun



Lisa M. Borba, President

ATTEST:



Mary A. Neher
District Secretary

Chapter 5.44

WATER CONSERVATION

Sections:

- 5.44.010 Prevention of Waste.**
- 5.44.020 Encouraged.**
- 5.44.030 Conservation Program – Rules and Regulations**

5.44.010 Prevention of Waste.

The District may find, at its sole reasonable discretion, that a customer is wasting District-furnished water, which may include one or more of the following:

- a) failing to repair a leak in the customer's water system;
- b) permitting excessive water run-off from the customer's premises;
- c) watering outdoor landscapes in a manner that causes excessive runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
- d) watering of outdoor landscapes during and up to 48 hours after measurable rainfall;
- e) watering outdoor landscapes between the hours of 9:00 a.m. and 5:00 p.m.;
- f) using of a hose to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water when not in use;
- g) washing driveways, sidewalks, parking areas, patios or other outdoor area, unless the failure to do so would create a hazard to the health and safety of any individual or the public;
- h) using potable water for non-recirculating fountains or other non-recirculating decorative water features;
- i) irrigating ornamental turf in public street medians with potable water;
- j) irrigating landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development;
- k) or otherwise failing to put water received from the District to reasonable and beneficial use.

The General Manager of the District is authorized, without further action of the Board, to supplement the water use prohibitions detailed in Section 5.44.010, or to suspend enforcement of any prohibition, depending on existing water supply conditions or actions of the Governor, State Water Resources Control Board, or as may be necessary to prevent the waste or unreasonable use of District water supplies.

Violation of any of the aforementioned prohibitions shall be subject to punishment by an administrative fine of not more than two hundred fifty dollars (\$250.00) for a first offense, and five hundred dollars (\$500.00) for a second offense; each administrative fine to be accompanied by an additional penalty of up to \$10.00 per unit of water used or applied, in an amount to be determined in the District's sole discretion. Each and every day such a violation exists, constitutes a separate and distinct offense for which an administrative fine and penalty may be assessed. The District, in its sole discretion, may choose to provide a warning to alleged violators requesting that they immediately cease the waste prior to imposing administrative fines or penalties, which warning shall not in itself constitute a violation of the rules and regulations.

Imposition of administrative fines may be suspended by the Board of Directors by ordinance or resolution and subsequently reinstated in the same manner as the suspension was enacted.

If the customer fails to take prompt, reasonable action to stop the waste, the District may at its discretion suspend delivery of water to the customer or install a device to restrict the flow of water to the customer until the District determines, at its sole reasonable discretion, that there will be no further waste of water by the

customer. District determinations made pursuant to this section may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.

Written applications for exceptions to, or waivers from, the aforementioned prohibitions shall be submitted to the District and may be granted in any case where the District determines, in its sole reasonable discretion, that the applicable restriction or prohibition would cause undue hardship, including but not limited to, adverse economic impacts (such as loss of production or jobs) or would prevent compliance with a term or condition within a permit issued by a state or federal agency. Denial of an application for exception or waiver may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding. (Res. 90-84 Exh. A (part); Reg. 11(A))

5.44.020 Encouraged.

The District encourages the installation of water-conserving landscaping and water-saving devices in plumbing and water-using appliances. (Res. 90-84 Exh. A (part); Reg. 11(B))

5.44.030 Conservation Program – Rules and Regulations

A. Purpose and intent – The purpose of this program is to conserve the water supply of the Contra Costa Water District (District) for the greatest public benefit with particular regard to public health, fire protection, industrial and domestic use, to conserve water by reducing waste, to maintain water use at or below historical levels to ensure that the available supply is sufficient to meet the water needs of the District's customers, and to ensure that water supplies are sufficient in the event of conditions that restrict the District's available water supply.

B. Effective Period – These Regulations shall remain in effect until such date that they are amended, terminated, or superseded by action of the Board of Directors.

C. Allocation of Untreated Water – To ensure that the available supply is sufficient to meet domestic, municipal, and industrial water needs of the District's customers, each user of untreated water furnished by the District is strongly urged to not exceed their historical use. A customer's historical use is based on the quantity of water furnished by the District and used during the corresponding period in 2013.

D. Allocation of Treated Water – To ensure that the available supply is sufficient to meet domestic, municipal, and industrial water needs of the District's customers, each user of treated water furnished by CCWD is strongly urged to not exceed their historical use. A customer's historical use is based on the quantity of water furnished by the District and used during the corresponding period in 2013.

E. Exceptions and Waivers – Written applications for exceptions to, or waivers from, any provision of the Conservation Program Rules and Regulations shall be granted in any case where the District determines, at its sole reasonable discretion, that the water budget, restriction, or prohibition may create a hazard to the health and safety of any individual or the public, or would cause undue hardship, including but not limited to, adverse economic impacts such as loss of production or jobs. Denial of an application may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.

Any customer whose account does not have consumption history for all, or any portion, of the base period (2013) used under these Conservation Rules and Regulations to establish the basis for their historical use, may apply for an exception so that an adjusted water budget may be established. Exceptions become effective on the date of approval and are not applied retroactively.

F. If any provision of the Conservation Program Rules and Regulations, or any part thereof, is for any reason held to be ultra vires, invalid, unenforceable, or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of these Conservation Rules and Regulations are severable. (Res. 19-001 Exh. A (part); Ordinance 16-01)