



**SECTION 28**  
**WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION**

Drought conditions require that all customers reduce individual and collective use of EBMUD water supplies until further notice to ensure availability of the public water supply for critical uses. This regulation specifies the water uses that are prohibited during the drought and provides guidelines on effective water use practices to help customers conserve. It also defines the exceptions and enforcement provisions should customers fail to comply with the prohibitions.

**A. EMERGENCY REGULATIONS AND RESTRICTIONS ON WATER USE**

During the water shortage emergency condition declared by the Board of Directors, all customers must comply with prohibitions on water uses described below to conserve the public water supply to meet critical needs. In addition, customers are asked to follow the water saving guidelines below.

1. Potable Water Uses Prohibited During the Water Shortage Emergency

- a. Using potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds is prohibitive, with exceptions for those decorative fountains, lakes or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses.
- b. Washing a motor vehicle with a hose, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use, is prohibited.
- c. Washing sidewalks, driveways or hard surfaces with potable water, or applying potable water to any surface or material that results in excessive use and runoff is prohibited.
- d. The use of potable water for street cleaning or construction site preparation purposes is prohibited unless no other method can be used or as needed to protect the health and safety of the public.
- e. The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures is prohibited.
- f. Irrigating turf and ornamental landscape is only permitted no more than three days each week, not on consecutive days, and before 9 a.m. and after 6 p.m., except for potted plants.
- g. The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of an inch of rain is prohibited.
- h. Using potable water for irrigating ornamental turf on public street medians is prohibited.



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- i. Flushing sewers or hydrants with potable water is prohibited, except in cases of emergency and for essential operations.
  - j. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased is prohibited.
  - k. Operators of hotels and motels are required to offer patrons the option of not having towels and linens washed daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
  - l. Use of EBMUD hydrant water outside the EBMUD service area is prohibited.
2. Water Savings Guidelines
- a. Conserve water indoors. Efficient residential indoor water use is 45 gallons and super-efficient indoor use is 35 gallons per person daily. Most customers can achieve this by shortening showers and using less bath water, running only full loads of laundry and dishes, and keeping a close eye on faucet use. Additionally, customers are encouraged to reduce use of kitchen garbage disposals through composting or curbside green waste collection and to not use toilets as wastebaskets. Customers also may want to consider upgrading to more water-efficient plumbing fixtures and appliances.
  - b. Promptly repair leaks indoors and outside. Plumbing systems with measurable leaks should not be turned on until repairs have been completed.
  - c. Use covers on swimming pools and home spas (hot tubs) to prevent evaporation. Avoid draining and refilling.
  - d. Encourage gyms, spas and similar facilities to ask patrons to conserve water while showering and using sinks.
  - e. Encourage all food preparation establishments, such as restaurants and cafeterias, to install and use high-efficiency pre-rinse spray nozzles in kitchens.
  - f. Irrigate less outdoors. Most customers can cut outdoor watering 30% without affecting long-term plant health by irrigating before dawn or at dusk, no more than three days per week.



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**B. EXCEPTIONS**

1. Written applications for exceptions from the regulations and restrictions on water use set forth in this Section shall be accepted, and may be granted, by the Customer & Community Services Department.
2. Grounds for granting such applications are:
  - a. Failure to do so would cause an unnecessary and undue hardship to the applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or
  - b. Failure to do so would cause a condition affecting the health, sanitation, fire protection or safety of the applicant or the public.
3. Denials of applications may be appealed as set forth in subdivision D, below.

**C. ENFORCEMENT**

1. The District may, after one written warning, order that a special meter reading or readings be made in order to ascertain whether wasteful use of water is occurring. Charges for such a meter reading or readings or for follow-up visits by District staff are fixed by the Board from time to time and shall be paid by the customer.
2. In the event that the District observes that apparent excessive water use is occurring at a customer's premises, the Director of Customer and Community Services may, after a written warning to the customer, authorize installation of a flow-restricting device on the service line for any customer observed by District staff to be willfully violating any of the regulations and restrictions on water use set forth in this section. Charges for installation of flow-restricting devices may be fixed by the Board from time to time and shall be paid by the customer.
3. In the event that a further willful violation is observed by District staff, the District may discontinue service. Charges for restoring service may be fixed by the Board from time to time and shall be paid by the customer.
4. The District may immediately revoke a permit to use water from an EBMUD hydrant when water is observed being used in violation of the emergency regulations or restrictions on water use.

**D. APPEALS**

Consideration of written applications for appeals regarding exceptions from the regulations and restrictions on water use set forth in this Section, and regarding application of the enforcement actions set forth in subdivision C, above, shall be as follows:



# **REGULATIONS GOVERNING WATER SERVICE**

## **TO CUSTOMERS OF THE EAST BAY MUNICIPAL UTILITY DISTRICT**

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PAGE NUMBER: 28-D

### **SECTION 28**

#### **WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION**

1. Written applications for appeals shall be accepted, and may be granted, by the Customer & Community Services Department.
2. Denials of applications may be appealed in writing to the Director of Customer and Community Services.

RESOLUTION NO. 35287-22

DECLARING A WATER SHORTAGE EMERGENCY AND STAGE 2 DROUGHT,  
ESTABLISHING A DISTRICT-WIDE MANDATORY WATER USE REDUCTION  
GOAL OF TEN PERCENT, ADOPTING SECTION 28 OF THE DISTRICT'S  
REGULATIONS GOVERNING WATER SERVICE TO CUSTOMERS,  
CONFIRMING AND DIRECTING ADDITIONAL DROUGHT RESPONSE  
MEASURES, AND MAKING NECESSARY FINDINGS

Introduced by Director Coleman ; Seconded by Director Mellon

WHEREAS, dry conditions have prevailed throughout much of California for three consecutive years, including within the Mokelumne River basin and the East Bay; and

WHEREAS, the 2021-2022 water year has featured below average precipitation in the Mokelumne River basin and in the East Bay, including the driest January through March period on record; and

WHEREAS, in response to the prevailing dry conditions, the Governor issued an escalating series of Executive Orders on April 12, 2021, May 10, 2021, July 8, 2021 and October 9, 2021 which, among other measures, proclaimed a drought emergency to exist in every California county, including those in which the East Bay Municipal Utility District ("District") operates or serves water, and directed the State Water Resources Control Board ("State Water Board") to adopt regulations allowing curtailment of water rights in certain circumstances and prohibiting certain uses of water; and

WHEREAS, in response to the Governor's directives, the State Water Board adopted emergency regulations on August 3, 2021 and January 4, 2022 which, respectively, authorized the curtailment of water rights in the Bay-Delta watershed and prohibited certain uses of water as wasteful and unreasonable; and

WHEREAS, most of the District's water supply derives from its water rights on the Mokelumne River, which is within the Bay-Delta watershed and therefore subject to curtailment; and

WHEREAS, on February 1, 2022, the State Water Board issued an order curtailing diversions under all Mokelumne River water rights with a priority date of 1949 or later, including one of the District's most significant water rights, and although the State Water Board subsequently temporarily suspended the curtailment order as applied to the District's affected water right, there is an ongoing risk that the District's water rights may be curtailed when sufficient water is no longer available for appropriation; and

WHEREAS, on March 17, 2022, the State Water Board sent a warning letter to water rights holders, including the District, which noted the severe and worsening drought conditions prevailing in California, advised water users to prepare for an "earlier curtailment" of water rights in the Bay-Delta watershed, and urged water rights holders to plan for water supply shortages and take action to conserve water and adapt to drought conditions; and

WHEREAS, on March 28, 2022, the Governor issued Executive Order N-7-22, reaffirming the declared state of emergency, calling on Californians to reduce their water use 15 percent from 2020 levels, and initiating a regulatory action which is expected to require urban water suppliers, including the District, to implement a minimum level of shortage response actions consistent with those suppliers' adopted Water Shortage Contingency Plans; and

WHEREAS, the District adopted a Water Shortage Contingency Plan in 2021 which sets forth Drought Management Program Guidelines ("DMP Guidelines"), including a four-stage system of recommended drought response actions to help the District conserve available water supplies and obtain supplemental supplies to continue to meet customer water demand; and

WHEREAS, on April 27, 2021, the District's Board of Directors ("Board") declared that the District's water supply was deficient for meeting customer demands, declared a Stage 1 Drought, established a District-wide voluntary 10 percent customer demand reduction goal, declared a need to purchase up to 58,000 acre-feet of supplemental water supplies from the United States Bureau of Reclamation ("Reclamation"), and directed implementation of additional drought measures described in the District's Water Shortage Contingency Plan; and

WHEREAS, the District's primary source of supplemental supply derives from its contract with Reclamation, under which the District is entitled to purchase water from the Central Valley Project ("CVP") as a supplemental supply during years in which its total system storage is projected to be below a certain contractual threshold; and

WHEREAS, although the District was entitled to purchase CVP water during the 2021-2022 contract year, and despite the District Board's direction to purchase up to 58,000 acre-feet of CVP water, the District received only 33,916 acre-feet of CVP water through March 31, 2022 because Reclamation reduced the District's allocation to 25 percent of the contractual entitlement—a nearly unprecedented event—due to difficult hydrological and water storage conditions; and

WHEREAS, the District's CVP water allocation for the 2022-2023 contract year is currently set at an unprecedentedly low "public health and safety" level and, as a result, the District is unlikely to secure any supplemental supply from the CVP until March 2023 at the earliest; and

WHEREAS, during the previous drought the District successfully purchased transfer water from willing sellers as an additional source of supplemental water supply, and water transfers remain an important component of the District's drought planning and water supply reliability strategy; and

WHEREAS, the water transfer market has been less robust than expected during 2022 because some water users who may otherwise be willing to transfer water to the District do not have a sufficient water supply to permit the sale of water to the District; and

WHEREAS, these concurrent constraints on the ability to secure supplemental supplies mean the District, despite its sustained efforts, may be unable to maintain sufficient water supplies to meet current and anticipated demand for water in its service area without implementing additional measures to reduce water demand, increase water conservation, and thereby extend the available water supply to the fullest extent possible; and

WHEREAS, the District, similar to other water agencies in California, has not been able to consistently achieve its conservation goal during this drought, and while the voluntary efforts of District customers did achieve the District's 10 percent water use reduction goal during 2021, record-breaking dry conditions in the first part of 2022 have led to increased demand; and

WHEREAS, the District measures gross water production on an ongoing basis as a reliable indicator of total customer water use, and the District's average daily gross water production between July 1, 2021 and April 19, 2022 is only six percent less than the same period in 2019-2020, and since January 1, 2022, gross water production has actually increased by one percent compared with the same period in 2020; and

WHEREAS, since October 2021 the District has operated under a "dry" water year type under the District's Joint Settlement Agreement, and the District's 2022 water supply assessment concludes that the upcoming year in the Mokelumne River watershed will also be classified as a "dry" year based on California Department of Water Resources' April 12, 2022 Bulletin 120 forecast, which forecasts runoff on the Mokelumne River at 56 percent of average; and

WHEREAS, through April 19, 2022, the District's Mokelumne basin snow survey reference point at Caples Lake had a snow depth of 9 inches (16 percent of average), while the total precipitation during the current rainfall year in the Mokelumne watershed was 80 percent of average (35.17") and the total precipitation in the East Bay was 80 percent of average (20.2"); and

WHEREAS, precipitation to date during April 2022 within the Mokelumne River watershed has been near the historical median for the forecasted period, and the current short-term weather forecast predicts near-median precipitation; however the recent and forecasted precipitation is insufficient to substantially reduce the accumulated precipitation deficit, and long-term precipitation forecasting models do not currently predict a likelihood of above-normal precipitation during the remainder of the Spring; and

WHEREAS, in accordance with the District's Water Shortage Contingency Plan and District Policy 9.03, the District assesses the sufficiency of its water supply and selects drought response actions based in part by projecting the total volume of water expected to be stored in the District's reservoirs at the end of September given assumed levels of runoff and demand ("Total System Storage Projection"); and

WHEREAS, it is reasonable and prudent to base the Total System Storage Projection on an assumption that conditions in the Mokelumne watershed will remain dry relative to the historical median for the remainder of the precipitation season, as reflected by the "90 percent exceedance" projection, because precipitation has consistently trended well below the historical median for an extended time, because an imminent and sustained reversion to mean-or-above hydrology is historically unlikely, because early-season snowmelt has reduced the snowpack and runoff is expected to peak in late April 2022, because concern is growing statewide regarding the ongoing dry conditions, and because it is important to use appropriately conservative water supply projections to ensure sufficient water will be available for customers while making required releases to downstream water users and for environmental needs; and

WHEREAS, the District's Water Supply Availability and Deficiency Report dated April 26, 2022 reported that the District's most recent Total System Storage Projection is 465,000 acre-feet based on a 90 percent exceedance and concluded the District's water supply is insufficient to meet customer demands after all downstream obligations are met; and

WHEREAS, on April 26, 2022, the Board declared for the second consecutive year that the District's water supply will be deficient for meeting customer demands, having considered the information in the Water Supply Availability and Deficiency Report; and

WHEREAS, the District has undertaken substantial investments in comprehensive water conservation programs, water recycling projects, and dry year supplemental water supply projects to help reduce the severity of water rationing that may be required in multi-year droughts, and will continue doing so; and

WHEREAS, the District achieved approximately 46 million gallons per day in customer conservation savings between 1994 and 2018 and is working to achieve 70 million gallons per day of conservation savings by 2050; and

WHEREAS, the District provided recycled water customers with over 6 million gallons per day of recycled water for nonpotable uses in 2021 and continues to pursue further expansions of its recycled water program; and

WHEREAS, despite the District's long-running, aggressive water conservation program and its utilization of recycled water supplies, the current dry conditions and the District's deficient water supplies require consideration of additional drought response measures including customer water use reductions; and

WHEREAS, the DMP Guidelines recommend that a Stage 1 Drought be declared if the Total System Storage Projection falls between 425,000 acre-feet and 475,000 acre-feet, and that a Stage 2 Drought be declared if the Total System Storage Projection falls between 390,000 acre-feet and 425,000 acre-feet; and

WHEREAS, the DMP Guidelines recommend establishing a voluntary water use reduction goal of up to 10 percent during a Stage 1 Drought, a mandatory water use reduction goal of 10 to 15 percent during a Stage 2 Drought, and additional actions to promote water conservation in both stages; and

WHEREAS, the DMP Guidelines are intended to guide, but not constrain, District drought response actions; and

WHEREAS, declaring a Stage 2 Drought now will increase the likelihood that District customers will achieve significant conservation savings during the Summer when conservation is most readily achieved due to relative flexibility in summertime outdoor water use; and

WHEREAS, the positive conservation trend initially observed after the Stage 1 Drought declaration has reversed in recent months even as the drought has continued and grown more severe, and declaring a Stage 2 Drought and adopting mandatory conservation measures is likely to contribute to restoring a positive water conservation trend; and



WHEREAS, the State, which has previously established a 15 percent water conservation goal, has recently publicly conveyed an expectation for water providers to take additional measures to promote water conservation at this time, highlighted by the March 28, 2022 Executive Order and pending State Water Board emergency regulation, and it is appropriate for the District to take additional steps now to align with emerging statewide policy trends; and

WHEREAS, the DMP Guidelines' Drought Stage thresholds were originally selected based on an assumption that the District could and would acquire a specific assumed quantity of supplemental water at each stage of a drought, and while those assumptions were reasonable at the time they were made based on the information available, they did not contemplate a supply constraint as severe as the District has experienced the last two years; and

WHEREAS, the recent unexpected difficulty of supplementing the District's water supply has increased the importance of providing greater conservation incentives earlier in the drought than previously planned, in order to reduce demand; and

WHEREAS, the Total System Storage Projection, like all hydrological projections, is subject to a degree of unavoidable statistical uncertainty which justifies a conservative approach given the importance of sound water supply planning; and

WHEREAS, urban water suppliers are expressly authorized by Water Code section 10632.2 to implement reasonable alternative actions beyond those specified in a Water Shortage Contingency Plan without the need to amend the Plan; and

WHEREAS, for the reasons set forth above, it is necessary and appropriate to declare a Stage 2 Drought and establish a District-wide mandatory water use reduction goal at this time, notwithstanding the fact that the Total System Storage Projection is currently somewhat higher than the previously understood threshold for declaring a Stage 2 Drought as reflected in the DMP Guidelines; and

WHEREAS, the District has enacted an Excessive Water Use Penalty Ordinance, Ordinance No. 373-21 ("Ordinance") which, under the authority of Water Code section 365, *et seq.*, establishes thresholds for excessive water usage and subjects violators to a penalty, and the Ordinance applies to single-family residential customers, without need for further discretionary Board action, whenever the Board has declared a Stage 2 or greater drought and determined that mandatory reductions in water use are required; and

WHEREAS, the Ordinance was amended on October 29, 2021 to bring it into conformance with SB 814 (Hill) by making the Ordinance applicable during a Stage 2 Drought when mandatory water use reductions are in effect, and the DMP Guidelines have not yet been updated to reflect the amended Ordinance's Stage 2 applicability; and

WHEREAS, although the Ordinance becomes enforceable under its own terms upon the Board's declaration of a Stage 2 Drought or greater and its determination that mandatory water use reductions are required, the Board nevertheless wishes to express its intention that the Ordinance be fully implemented henceforth in accordance with its provisions in order to further the purposes of this Resolution; and

WHEREAS, Water Code sections 350 and 353 authorize the Board to declare a water shortage emergency condition to prevail within the District's service area, after holding a noticed public hearing and making appropriate findings, and having so declared, to adopt such regulations and restrictions on the delivery and consumption of water within the service area as will, in the Board's sound discretion, conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection; and

WHEREAS, a water shortage emergency condition within the meaning of Water Code section 350 includes both an immediate emergency, in which the District is presently unable to meet its customers' needs, and a threatened water shortage, in which the District is empowered to anticipate a future water shortage and to impose appropriate regulations and restrictions where, lacking such control, its water supply will become depleted and it will be unable to meet the needs of its consumers; and

WHEREAS, Water Code section 375 authorizes the Board to adopt and enforce a water conservation program, after holding a noticed public hearing and making appropriate findings, in order to reduce the quantity of water used by District customers for the purpose of conserving the District's water supplies; and

WHEREAS, it has been a longstanding practice of the District during prior water shortage emergency conditions to temporarily adopt Section 28 of its Regulations Governing Water Service to Customers, entitled "Water Use During Water Shortage Emergency Condition," ("Section 28") which prohibits certain water uses during the pendency of the emergency and provides for enforcement; and

WHEREAS, although the DMP Guidelines recommend that Section 28 be adopted when a Stage 3 or greater Drought is declared, it is appropriate to adopt Section 28 at this time in conjunction with a mandatory water use reduction goal, because achieving that goal depends in significant part on adopting and enforcing the restrictions on water use contained in Section 28, and because the water uses which Section 28 will prohibit are substantially aligned with the State's existing emergency regulation prohibiting wasteful and unreasonable water uses codified in Section 995 of title 23 of the California Code of Regulations; and

WHEREAS, it is the intention of the Board that Section 28 be adopted as a water shortage emergency regulation under the authority of Water Code section 350, *et seq.*, and as a separate and independent legal basis, as an enforceable water conservation program under the authority of Water Code section 375, *et seq.*; and

WHEREAS, a public hearing was conducted by the Board on April 26, 2022, at which time all interested persons were afforded an opportunity to be heard to protest or support the proposed declaration of a water shortage emergency, the proposed adoption of Section 28, and/or any other action to be taken by this Resolution, and to present their respective needs to the Board; and

WHEREAS, in accordance with Water Code sections 352 and 376, a notice of the time and place of this public hearing was published in compliance with Government Code section 6061 at least seven days prior to the hearing; and

WHEREAS, in accordance with Water Code section 376, a certified copy of the full text of this Resolution and of Section 28, which is Exhibit A hereto, was posted in the office of the District at least five days prior to the Board's meeting at which this Resolution was considered for adoption; and

WHEREAS, the Board has considered all the oral and written information presented to it during and prior to the public hearing regarding the proposed declaration of a water shortage emergency, adoption of Section 28, and the other actions to be directed or implemented through this Resolution; and

WHEREAS, costs associated with the implementation of this Resolution are covered under existing FY22 budget resources, and if the Board adopts a drought surcharge by separate action, may be funded in part by any such surcharge; and

WHEREAS, the declaration of a Stage 2 Drought, establishment of a mandatory 10 percent customer demand reduction goal and other measures to promote water conservation will enable the District to continue meeting the water supply needs of its customers;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District finds and determines and hereby declares the following:

Section 1. Authority. This Resolution is adopted pursuant to Water Code sections 350, *et seq.*, 365, *et seq.*, 375, *et seq.*, 10632.2 and 10643, Public Utilities Code section 11885, and District Ordinance No. 373-21.

Section 2. Recitals. The Board hereby finds and determines that the above recitals are true and correct and incorporates them herein.

Section 3. Water Shortage Emergency. The Board hereby finds and determines that the ordinary demands and requirements of the District's customers cannot be satisfied without depleting the District's water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. The Board hereby declares a water shortage emergency condition to prevail within the service area of the District.

Section 4. Stage 2 Drought. The Board hereby finds and determines that a significant water supply shortage exists and mandatory reductions in water use are required to achieve a reduction in water usage of ten (10) percent. The Board hereby declares a Stage 2 Drought pursuant to the District's approved Water Shortage Contingency Plan.

Section 5. Mandatory Water Use Reduction Goal. The Board hereby establishes a District-wide mandatory ten (10) percent water use reduction goal. It is the present intention of the Board that progress towards this goal be measured on a District-wide basis, and that the mandate should be implemented through the adoption of drought response measures including those set forth in this Resolution.

Section 6. Section 28. The Board hereby adopts Section 28 of the Regulations Governing Water Service to Customers effective April 26, 2022, which is attached hereto as Exhibit A and incorporated herein by reference. Section 28 may be amended as appropriate

during the water shortage emergency and will be rescinded when the water shortage emergency is declared over. The Board finds and determines that the water uses prohibited by Section 28 are unreasonable and wasteful in this drought period, and that the enforcement measures are appropriate and reasonable and may be used by the District to control water use.

Section 7. Additional Findings. With respect to the actions taken in Section 5 and Section 6 above, the Board hereby additionally finds and determines: (i) that the restrictions on water use set forth therein will, in the sound discretion of the Board, conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation and fire protection, and (ii) that it is necessary to adopt and enforce the restrictions set forth therein as a water conservation program to reduce the quantity of water used by District customers for the purpose of conserving the District's water supplies.

Section 8. Water Shortage Emergency Action Plan. The Board hereby directs District staff to prepare a Water Shortage Emergency Action Plan for Board consideration. The plan should propose a suite of drought response measures for implementation which are appropriate for current drought conditions. The plan shall be developed with reference to the recommended Stage 2 Drought response actions described in the District's approved Water Shortage Contingency Plan. The plan may propose measures to promote water conservation, communication and outreach strategies, an enforcement approach, and other response actions.

Section 9. Excessive Water Use Penalty Ordinance. The Board hereby expresses its intention for the provisions of the District's Excessive Water Use Penalty Ordinance (Ordinance No. 373-21) applicable during a Stage 2 Drought to be implemented forthwith, including without limitation its applicable mandatory water use restrictions and associated penalties.

Section 10. Supplemental Water Supplies. The Board reaffirms its prior direction to staff to continue efforts to pursue supplemental water supplies from the Central Valley Project or, consistent with established District policy, from other willing sellers.

Section 11. Delegation. All officers of the District are hereby authorized to perform such duties as may be required to implement the actions taken in this Resolution.

Section 12. Severability. If any provision, section, subsection, sentence, clause or phrase or sections of this Resolution, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Resolution shall not be affected, it being the intent of the Board in adopting this Resolution that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the invalidity of any other provision hereof, and all provisions of this Resolution are declared to be severable for that purpose.

Section 13. Effective Date. This Resolution shall take effect immediately upon adoption.

BE IT FURTHER RESOLVED that the District Board hereby finds and determines that the actions taken herein are exempt from the requirements of the California Environmental Quality Act pursuant to Public Resources Code section 21080(b)(4) and Water Code section 10652 because they are necessary to prevent or mitigate the water shortage emergency and because they are taken to implement the District's Water Shortage Contingency Plan pursuant to Water Code

section 10632, including but not limited to shortage response actions described in section 10632(a)(4) and the District's Water Shortage Contingency Plan. The Secretary of the District is hereby authorized and directed to file a Notice of Exemption in accordance with applicable statutes and regulations with the County Clerks of Alameda and Contra Costa Counties.

BE IT FURTHER RESOLVED that the Secretary of the District is hereby authorized and directed to cause a summary of this Resolution and Exhibit A hereto to be published in one or more newspapers of general circulation within the District's service area in accordance with Water Code section 376(b)(1).


ADOPTED this 26th day of April, 2022 by the following vote:

AYES: Directors Coleman, Katz, McIntosh, Mellon, Patterson, and Young.

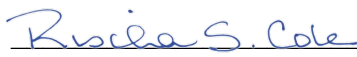
NOES: President Linney.

ABSENT: None.


ABSTAIN: None.

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

APPROVED AS TO FORM AND PROCEDURE:

  
\_\_\_\_\_  
General Counsel



# **REGULATIONS GOVERNING WATER SERVICE TO CUSTOMERS OF THE EAST BAY MUNICIPAL UTILITY DISTRICT**

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PAGE NUMBER:

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### **A. EMERGENCY REGULATIONS AND RESTRICTIONS ON WATER USE**

During the water shortage emergency condition declared by the Board of Directors, all customers must comply with prohibitions on water uses described below to conserve the public water supply to meet critical needs. In addition, customers are asked to follow the water saving guidelines below.

1. Potable Water Uses Prohibited During the Water Shortage Emergency
  - a. Using potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds is prohibited, with exceptions for those decorative fountains, lakes or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses.
  - b. Washing a motor vehicle with a hose, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use, is prohibited.
  - c. Washing sidewalks, driveways, or hard surfaces with potable water, or applying potable water to any surface or material that results in excessive use and runoff is prohibited.
  - d. The use of potable water for street cleaning or construction site preparation purposes is prohibited unless no other method can be used or as needed to protect the health and safety of the public.
  - e. The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures is prohibited.
  - f. Irrigating turf and ornamental landscape is only permitted no more than three days each week, not on consecutive days, and before 9 a.m. and after 6 p.m., except for potted plants.
  - g. The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of an inch of rain is prohibited.
  - h. Using potable water for irrigating ornamental turf on public street medians is prohibited.



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Flushing sewers or hydrants with potable water is prohibited, except in cases of emergency and for essential operations.

- i. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased is prohibited.
  - j. Operators of hotels and motels are required to offer patrons the option of not having towels and linens washed daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
  - k. Use of EBMUD hydrant water outside the EBMUD service area is prohibited.
2. Water Savings Guidelines
- a. Conserve water indoors. Efficient residential indoor water use is 45 gallons and super-efficient indoor use is 35 gallons per person daily. Most customers can achieve this by shortening showers and using less bath water, running only full loads of laundry and dishes, and keeping a close eye on faucet use. Additionally, customers are encouraged to reduce use of kitchen garbage disposals through composting or curbside green waste collection and to not use toilets as wastebaskets. Customers also may want to consider upgrading to more water-efficient plumbing fixtures and appliances.
  - b. Promptly repair leaks indoors and outside. Plumbing systems with measurable leaks should not be turned on until repairs have been completed.
  - c. Use covers on swimming pools and home spas (hot tubs) to prevent evaporation. Avoid draining and refilling.
  - d. Encourage gyms, spas, and similar facilities to ask patrons to conserve water while showering and using sinks.
  - e. Encourage all food preparation establishments, such as restaurants and cafeterias, to install and use high-efficiency pre-rinse spray nozzles in kitchens.
  - f. Irrigate less outdoors. Most customers can cut outdoor watering 30% without affecting long-term plant health by irrigating before dawn or at dusk, no more than three days per week.



**SECTION 28**  
**WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION**

**B. EXCEPTIONS**

1. Written applications for exceptions from the regulations and restrictions on water use set forth in this Section shall be accepted, and may be granted, by the Customer & Community Services Department.
2. Grounds for granting such applications are:
  - a. Failure to do so would cause an unnecessary and undue hardship to the applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or
  - b. Failure to do so would cause a condition affecting the health, sanitation, fire protection or safety of the applicant or the public.
3. Denials of applications may be appealed as set forth in subdivision D, below.

**C. ENFORCEMENT**

1. The District may, after one written warning, order that a special meter reading or readings be made in order to ascertain whether wasteful use of water is occurring. Charges for such a meter reading or readings or for follow-up visits by District staff are fixed by the Board from time to time and shall be paid by the customer.
2. In the event that the District observes that apparent excessive water use is occurring at a customer's premises, the Director of Customer and Community Services may, after a written warning to the customer, authorize installation of a flow-restricting device on the service line for any customer observed by District staff to be willfully violating any of the regulations and restrictions on water use set forth in this section. Charges for installation of flow-restricting devices may be fixed by the Board from time to time and shall be paid by the customer.
3. In the event that a further willful violation is observed by District staff, the District may discontinue service. Charges for restoring service may be fixed by the Board from time to time and shall be paid by the customer.
4. The District may immediately revoke a permit to use water from an EBMUD hydrant when water is observed being used in violation of the emergency regulations or restrictions on water use.

**D. APPEALS**

Consideration of written applications for appeals regarding exceptions from the regulations and restrictions on water use set forth in this Section, and regarding application of the enforcement actions set forth in subdivision C, above, shall be as follows:





**REGULATIONS GOVERNING WATER SERVICE**  
**TO CUSTOMERS OF THE EAST BAY MUNICIPAL UTILITY DISTRICT**

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PAGE NUMBER:

**SECTION 28**  
**WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION**

1. Written applications for appeals shall be accepted, and may be granted, by the Customer & Community Services Department.
2. Denials of applications may be appealed in writing to the Director of Customer and Community Services.

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EFFECTIVE DATE:

AUTHORITY-RESOLUTION NUMBER: