

ORDINANCE NO. 72.24

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE EASTERN MUNICIPAL WATER DISTRICT REVISING THE REQUIREMENTS ESTABLISHED FOR WATER USE EFFICIENCY

WHEREAS, on January 23, 1991, the Board of Directors of Eastern Municipal Water District (District) adopted Ordinance No. 72, a Water Conservation Plan (Plan), in response to the implementation of Metropolitan Water District of Southern California's Incremental Interruption and Conservation Plan which was enacted due to statewide and local water supply shortages resulting from several years of drought conditions; and

WHEREAS, since its adoption, the plan has been amended from time to time to incorporate refinements and modifications found to be appropriate and necessary; and

WHEREAS, in compliance with the provisions of Assembly Bill 325, on January 22, 1992, Ordinance No. 72.11 was adopted adding a "Procedural Guide and General Design Requirements for Procuring Water Service for On-site Landscape Irrigation Systems" to the Plan as Attachment A-1, which gives the District the power to require the use of recycled water instead of potable water for landscape irrigation purposes whenever possible, and implements water budgets for new commercial, industrial and institutional accounts; and

WHEREAS, revisions were made on December 18, 2002, to adequately address water use provisions in decorative lakes, ponds and water features, Ordinance No. 72.19 was approved; and

WHEREAS, revisions were made on April 5, 2006, to discourage water waste by all customers: establish penalties for commercial, industrial, institutional customers in non-compliance with runoff and/or irrigation requirements; and implement a tiered penalty structure for dedicated landscape meters for non-compliance with their water budgets, Ordinance No. 72.20 was approved; and

WHEREAS, revisions were made on January 3, 2007, to include Functional and Non-Functional Turf in calculating water budgets and increase penalties for commercial, industrial, institutional customers in non-compliance with runoff and/or irrigation requirements, Ordinance No. 72.21 was approved; and

WHEREAS, Ordinance No. 72.22 includes provisions of the Riverside County Water Efficient Landscape Ordinance No. 859 that became effective January 2007; and

WHEREAS, Ordinance No. 72.23 encourages the use of water efficient landscape by all new connections and imposes penalties for water waste by all customers; and

WHEREAS, Ordinance 72.24 takes into account the implementation of budget based tiered rates and updates the water efficiency guidelines to reflect current industry standards.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Eastern Municipal Water District that the following shall apply:

1. General Provisions

The following water efficiency requirements shall apply to all existing and future customers:

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- a. Refrain from hosing down driveways and other hard surfaces, except for health or sanitary reasons and then only by use of a hand-held bucket or similar container, a handheld hose equipped with a positive self-closing water shut-off device or a low-volume, high-pressure cleaning machine equipped to recycle any water used.
- b. Repair faucets, toilets, pipes and other potential sources of water leaks.
- c. Irrigate landscape only between 9:00 p.m. and 6:00 a.m. This provision does not apply when:
 - i. manually watering during the establishment period of a new landscape;
 - ii. temperatures are predicted to fall below freezing;
 - iii. for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
- d. Refrain from watering or irrigating of any lawn, landscape or other vegetated area with potable water using a landscape irrigation system or watering device that is not continuously attended unless it is limited to no more than fifteen (15) minutes watering per day per station. This 15 minute limitation can be extended for:
 - i. Landscape irrigation systems that exclusively use very low flow drip irrigation systems when no emitter produces more than two (2) gallons of water per hour.
 - ii. Weather based controllers or stream rotor sprinklers that meet a 70% efficiency.

But run-off or over watering is not permitted in any case.
- e. Adjust and operate all landscape irrigation systems in a manner, which will maximize irrigation efficiency and avoid over watering or watering of hardscape and the resulting runoff.
- f. Refrain from watering or irrigating any lawn, landscape or other vegetated area that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch.
- g. Do not use decorative fountains unless they are equipped with a recycling system.
- h. Do not allow water to run while washing vehicles. Use a bucket or similar container and/or a handheld hose equipped with a positive self-closing water shut-off device to avoid run off into gutters, streets or alleys.
- i. When installing new landscaping, plant low-water demand trees and plants. Do not incorporate non-functional turf areas.
- j. Refrain from watering during rain.

The requirements listed above should be followed at all times.

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2. Enforcement

The District has a tiered rate structure based on water budgets that applies to single-family, multi-family and landscape accounts utilizing the domestic water system. Four tiers are used to encourage efficient water use by customer groups and discourage wasteful behaviors prohibited in Section 1.

- a. The Tier 1 Rate applies to an indoor water budget. The indoor water budget is based on the gallons of water needed per person per day.
- b. The Tier 2 Rate applies to an outdoor water budget. This budget is based on square footage of landscape, actual daily Evapotranspiration and a conservation factor.
 - i. The default conservation factor for meters installed prior to September 1, 2008 will be 1.0.
 - ii. The default conservation factor for meters installed after September 1, 2008 will be 0.80 unless a lower ET adjustment factor is specified in the current State of California Model Water Efficiency Landscape Ordinance or the County of Riverside Water Efficient Landscape Requirements Ordinance.
 - iii. The conservation factor can be adjusted up to 1.25 for functional areas at the discretion of the District.

The outdoor water budget is calculated to provide enough water to irrigate efficiently but does not allow for wasting water.

- c. The Tier 3 Rate is applied to excessive use of water. Water used in this tier is a percentage of Tier 1 and 2 total budgets. The Tier 3 Rate is significantly higher than the rates applied to indoor and outdoor budgets.
- d. The Tier 4 Rate is applied to wasteful water use that exceeds the Tier 3 limit. This rate is much higher than the other tiers to discourage wasteful water use.

These rates are established in Resolution No. 3352, and subject to amendment from time to time by the Board of Directors.

3. Penalties for Water Runoff

All existing and future customers that allow water to runoff into an adjoining sidewalk, driveway, street, alley, gutter or ditch are subject to the following penalties:

- a. For multi-family, commercial, institutional, industrial, agricultural and landscape accounts:
 - i. For the first violation, the District shall issue a written notice of fact of such violation to the customer.
 - ii. For a second violation within twelve months from the first notice of violation, the District shall issue a final written notice of the fact of such violation to the customer.

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- iii. For a third violation within twelve months from the first notice of violation, a surcharge in the amount of \$100 shall be added to the customer's water bill.
 - iv. For a fourth violation within twelve months from the first notice of violation, a surcharge in the amount of \$200 shall be added to the customer's water bill.
 - v. For a fifth and any subsequent violation within twelve months from the first notice of violation, a surcharge of \$300 shall be added to the customer's water bill.
- b. For single-family residential accounts:
- i. For the first violation, the District shall issue a written notice of fact of such violation to the customer.
 - ii. For a second violation within twelve months from the first notice of violation, the District shall issue a final written notice of the fact of such violation to the customer.
 - iii. For a third violation within twelve months from the first notice of violation, a surcharge in the amount of \$25 shall be added to the customer's water bill.
 - iv. For a fourth violation within twelve months from the first notice of violation, a surcharge in the amount of \$50 shall be added to the customer's water bill.
 - v. For a fifth and any subsequent violation within twelve months from the first notice of violation, a surcharge of \$100 shall be added to the customer's water bill.

Customers are to pay water bill, and penalties in accordance with due dates on their bills. An Appeals Process is offered to customers that disagree with penalties outlined in this section of the Ordinance. If the appeal is upheld in favor of the customer, appropriate charges will be credited to the account and appropriate monies will be refunded. Details of the appeals process are included in section 6 of this Ordinance.

These rates are established in Resolution No. 2963, and subject to amendment from time to time by the Board of Directors.

The District shall use the revenues derived from the implementation of this section of the ordinance for water use efficiency programs and rebates.

4. Requirements for New Landscape Meters

- a. District requires a separate dedicated meter for landscape areas greater than or equal to 3,000 square-feet.
- b. The efficient use of water should be considered in the design of any new landscape area. The District will calculate a Annual Maximum Allowable Water Budget (AMAWB) for customers that request a new account using the following limitations:
 - i. AMAWB will be calculated using the area's Reference Evapotranspiration (ET_o), the size of the landscape area and a conservation factor.

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- ii. For non-functional areas (landscape areas primarily used for aesthetic purposes including, but not limited to front yards, median strips, and parkways) a conservation factor of 0.80 will be used unless a lower factor for adjusting ETo is specified in the current State of California Model Water Efficiency Landscape Ordinance or the County of Riverside Water Efficient Landscape Requirements Ordinance.
 - iii. For functional areas (landscape areas that serves as a surface for high traffic activities, such as playing a sport or group gatherings) a conservation factor of 1.25 will be used at the discretion of the District.
 - iv. The Reference ETo is a standard measurement of environmental parameters, which affect the water use of plants. Reference Evapotranspiration is given in inches per year and may vary by area across the District. The ETo for the project area will be provided by the District.
 - v. The AMAWB will be used to estimate outdoor water use. The actual outdoor water budget applied to the account will be based on actual daily ET. Watering schedules should be set accordingly.
- c. Prior to the issuance of a meter, the new customer shall calculate a water budget for each landscape area; then the water budget and the factors used to calculate the budget will be submitted to District for review. For the new meter to be issued, the calculated water budget for the landscape area cannot exceed the AMAWB limits calculated by the District.
 - d. New accounts that have to comply with similar or more stringent water use efficiency measures imposed by County and/or City Ordinances, do not need to comply with the requirements of this section of the Ordinance, but do need to provide information about the landscape areas to the District.

5. Special Conditions

All Commercial, Industrial and Institutional customers and dedicated landscape metered accounts – including those with golf courses, decorative lakes, ponds, and water features – shall abide by the District’s Ordinance 68.2 “Amended Rules and Regulations Governing the Provision of Recycled Water System Facilities and Service” and “Mandatory Use Requirements Policy”. Requirements include, but are not limited to: approved use of recycled water (or other non-potable supplies) to the maximum extent possible; and use of recycled water whenever it is available. Customers must follow District standards and procedures; and are subject to penalties for non-compliance.

6. Appeals Process

Any customer that disagrees with the penalties, outlined in Section 3 of this Ordinance, may file a written request with the General Manager for an appeal hearing. A request for a hearing shall set forth, in detail, all facts supporting the request.

The General Manager shall, within 15 days of receiving a request for an appeal hearing, designate a Hearing Officer who will hear the appeal and provide written notice to the customer of the hearing date, time, and place. The hearing date shall not be more than 30 days from the mailing of such notice by certified mail, unless a later date is agreed to

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by the customer. If the hearing is not held at the agreed upon time due to the actions or inaction of the customer, then the decision shall be deemed final.

At the hearing, the customer will have the opportunity to present information supporting his or her position concerning the penalties. After the hearing, the Hearing Officer shall deliver a written report to the General Manager setting forth findings of fact, conclusions, and a recommendation on whether to uphold, modify, or reverse the original penalties. Upon receipt of the written report, the General Manager shall issue his decision within 30 calendar days of the hearing. The written decision of the General Manager shall be sent to the customer by certified mail. The General Manager's decision shall be final on the 16th day after it is mailed, unless a request for a hearing is filed with the Board of Directors no later than 5:00 p.m. on the 15th day following such mailing.

Any customer may appeal a decision made by the General Manager, prior to the date that the General Manager's order becomes final, by filing a written request for a hearing with the Board of Directors. The request for the Board of Directors' hearing shall set forth in detail all the issues in dispute and all facts supporting the request. No later than 60 days after receipt of the request for a hearing, the Board of Directors shall either set the matter for a hearing, or deny the request for the hearing. Whether to grant or deny a request for a hearing on an appeal to the General Manager's decision shall be within the sole discretion of the Board of Directors.

If required, a hearing shall be held by the Board of Directors within 65 days of the date the request for a hearing was granted, unless a later date is agreed to by the customer and the Board of Directors. The Board of Directors shall make a determination whether to uphold, modify, or reverse the General Manager's decision. The order of the Board of Directors shall be final upon its adoption. The written decision and order of the Board of Directors shall be sent to the customer by certified mail within 30 days after the close of the hearing.

If the matter is not heard within the required time, due to actions or inactions of the customer, the General Manager's decision shall be final.

7. Variance Conditions

A variance may be issued by the District, in writing, to grant temporary variance for water uses otherwise prohibited under this Ordinance if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance, and if one or more of the following conditions are met:

- a. Compliance with this Ordinance cannot be technically accomplished during the duration of a water supply shortage or other condition for which the Ordinance is in effect.
- b. Alternative methods can be implemented which will achieve the same level of reduction in water use.

In times of drought or water supply cutbacks, provisions of this Ordinance may be modified in accordance with the Metropolitan Water District of Southern California's Water Surplus and Drought Management Plan, as well as Eastern Municipal Water District's Water Shortage Contingency Plan (Ordinance No. 117), as amended.

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8. Definition of Terms

Annual Maximum Allowable Water Budget - (MAWB) – The upper limit of water use for the entire landscaped area per individual irrigation meter for a year. It is based on the size of the landscaped area and upon the allowable percentage of reference evapotranspiration.

Dedicated Landscape Meters – A separate meter dedicated to measuring water used for the sole purpose of irrigating landscape.

Evapotranspiration (ET) – The quantity of water evaporated from adjacent soil surfaces and transpired by plants during a specific time. Evaporation (E) from the soil and Transpiration (T) from the plant. Evapotranspiration data is collected for microzones across the District using CIMIS information and other weather factors.

Excessive Irrigation - Irrigation of lawn or landscape areas that would cause water runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch.

Functional Areas – Landscape areas that serves as a surface for high-traffic activities, such as playing a sport or group gatherings.

Landscape Meter – A meter used for measuring water used in part or solely for the purpose of irrigating landscape.

Non-Functional Areas - Landscape areas primarily used for aesthetic purposes including, but not limited to front yards, median strips, and parkways.

Reference Evapotranspiration (ETo) - A standard measurement of environmental parameters, which affect the water use of plants. Reference Evapotranspiration is given in inches of water per day, month, or year and may vary by area across the District. ETo is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool season turf that is well watered. The District will provide ETo for the project area.

Water Budget – Estimated amount of water needed to maintain a healthy landscape based on factors such as irrigation equipment, soil types, plant types and landscape area.

BE IT FURTHER ORDAINED, that as of March 1, 2009, Ordinance No. 72.23 is hereby rescinded; and

BE IT FINALLY ORDAINED, that the effective date of this Ordinance No. 72.24 is March 1, 2009.

ADOPTED this 4th day of February, 2009.

Joseph J. Kuebler, Vice President

ATTEST:

Rosemarie V. Howell, Secretary

(SEAL)