

ORDINANCE NO. 72.23

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE EASTERN
MUNICIPAL WATER DISTRICT REVISING THE REQUIREMENTS
ESTABLISHED UNDER THE WATER USE EFFICIENCY PLAN**

WHEREAS, on January 23, 1991, the Board of Directors of Eastern Municipal Water District (District) adopted Ordinance No. 72, a Water Conservation Plan (the 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.

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

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1. Definition of Terms

Annual Maximum Allowable Water Budget - (AMWB) – The upper limit of water use for the irrigation area per individual meter for a year. It is based on the size of the irrigation area.

Dedicated Landscape Meters – A separate meter required for irrigation areas greater than 3,000 square feet, dedicated to measuring water used for the sole purpose of irrigating landscape.

Evapotranspiration (ETo) – the total quantity of water evaporated from the soil surface and transpired by plants during a specific time. Evaporation (E) from the soil and Transpiration (T) from the plant. Currently, EMWD uses Evapotranspiration data from the California Information Management Information System (CIMIS) Field Station No. 44; located at the University of California, Riverside (UCR). Additional Evapotranspiration data will be used as new CIMIS stations are established in the area.

Excessive Run Off – Over irrigation of landscaped areas, leaks, or any other type of action that would cause water to flow into any gutters, streets, or alleys.

Functional Areas - Landscaped turf area that serves as a surface for such purposes as playing a sport or gathering for group activities.

Non Compliance Settlement Charges – Tiered Charges for use of water in excess of the AMAWB assessed on dedicated landscape accounts.

Non-Dedicated Meter – A meter used for the irrigation of landscape in addition to other applications such as indoor use or pools.

Reference ETo - A standard measurement of Evapotranspiration, which affect the water use of plants. Reference Evapotranspiration is given as 56.65 inches of water per year.

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.

2. General Provisions

In order to comply with requirements of state legislation, the Best Management Practices pertaining to urban water conservation guidelines, shown below, shall apply to all existing and future customers:

- a. Refrain from hosing down driveways and other hard surfaces, except for health or sanitary reasons.
- 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:
 - manually watering during the establishment period of a new landscape
 - temperatures are predicted to fall below freezing
 - testing/repairing an irrigation system

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- d. 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.
- e. Prevent excessively irrigating any lawn or landscape area; eliminate water runoff from lawns or landscape areas into any gutters, streets, or alleys.
- f. Do not use decorative fountains unless they are equipped with a recycling system.
- g. Install plumbing fixtures with low-flow devices, except for those that require high-flow fixtures for health and/or sanitary reasons. Where possible, install pool and spa covers to minimize water loss due to evaporation.
- h. Do not allow water to run while washing vehicles. Use a bucket or a hose with an automatic shutoff valve 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 by turning off irrigation timer.

The above guidelines are reflected here to identify best urban water conservation management practices.

3. Penalties

All existing and future customers with excessive run off that would cause water to flow into any gutters, streets, or alleys are subject to the following penalties:

- a. For the first violation, the District shall issue a written notice of fact of such violation to the customer.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

Customers are to pay water bills, penalties, and non-compliance settlement charges 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

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upheld in favor of the customer, appropriate monies will be refunded. Details of the appeals process are included in section 7 of this ordinance.

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 Dedicated Landscape Meters

District requires a separate dedicated meter for landscape areas greater than or equal to 3,000 square feet. A meter used for the landscape area of one single family residential home would only be required at the discretion the District. These Dedicated landscape meters shall comply with an established water budget in accordance with the provisions of the attached "Procedural Guide for Procuring Landscape Irrigation Water". Non-compliance settlement charges are assessed for accounts that do not comply with their established water budget. These charges are defined in the attached "Procedural Guide for Procuring Landscape Irrigation Water" document.

Customers are to pay water bills, penalties, and non-compliance settlement charges in accordance with due dates on their bills. An Appeals Process is offered to customers that disagree with the non-compliance settlement charges outlined in the attached "Procedural Guide for Procuring Landscape Irrigation Water" document. If the appeal is upheld in favor of the customer, appropriate monies will be refunded. Details of the appeals process are included in section 7 of this ordinance.

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

5. Requirements for All New Non-Dedicated Meters

This section of the Ordinance applies to all new accounts with either less than 3,000 square feet of landscaping or being used for the landscape area of one single family residential home. The efficient use of water should be considered in the design of any new landscape area. EMWD will calculate an Annual Maximum Allowable Water Budget (AMAWB) for customers that request a new account using the following limitations:

- a. For any landscaped areas primarily used for aesthetic purposes including, but not limited to front yards, median strips, and parkways, the AMAWB will be calculated using 80% of Reference Evapotranspiration (ET_o).
- b. The Reference ET_o is a standard measurement of environmental parameters, which affect the water use of plants. Reference Evapotranspiration is given as 56.65 inches of water per year.

Prior to the issuance of a meter, the new customer shall calculate a water budget for each landscape area and submit it, along with the factors used to calculate the budget, to EMWD for review. For the new meter to be issued, the calculated water budget for the landscape area cannot exceed the AMAWB limits calculated by EMWD.

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.

6. Special Conditions

All Commercial, Industrial and Institutional customers and landscape metered accounts – including those with golf courses, decorative lakes, ponds, and water features – shall abide by EMWD’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 EMWD standards and procedures; and are subject to penalties for non-compliance.

7. Appeals Process

Any customer that disagrees with the penalties and/or non-compliance settlement charges, outlined in this Ordinance, may file a written request with the General Manager for an appeal hearing. The District must receive the request within 30 days of the mailing of the penalty or the non-compliance settlement charge notice. 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 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 and/or non-compliance settlement charges. 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

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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 or the Board of Director's decision to deny the request for the hearing, the General Manager's decision shall be final.

8. 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.

BE IT FURTHER ORDAINED, that as of May 14, 2008, Ordinance 72.22 is hereby rescinded; and

BE IT FINALLY ORDAINED, that the effective date of this Ordinance No. 72.23 is September 1, 2008.

ADOPTED this 14th day of May, 2008.

David J. Slawson, President

ATTEST:

Rosemarie V. Howell, Secretary

(SEAL)