

OFFICE OF THE CITY ATTORNEY
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1 RESOLUTION NO. WD-1232

2
3 A RESOLUTION OF THE BOARD OF WATER
4 COMMISSIONERS OF THE CITY OF LONG BEACH
5 AMENDING AND RESTATING THE WATER
6 CONSERVATION AND WATER SUPPLY SHORTAGE PLAN,
7 AND RESCINDING RESOLUTION NO. WD-1209
8

9 WHEREAS, a reliable, minimum supply of quality potable water is essential
10 to the welfare of the people and economy of the City of Long Beach ("City"); and

11 WHEREAS, responsible management of water supplies in non-shortage
12 conditions is wise and prudent for both water supply reliability and environmental
13 stewardship; and

14 WHEREAS, effective and equitable management of limited water supplies
15 during a water supply shortage minimizes the impact on the people and economy of the
16 City; and

17 WHEREAS, on September 21, 1995, the Board of Water Commissioners of
18 the City of Long Beach ("Board") adopted Resolution No. WD-1071 entitled "A Resolution
19 of the Board of Water Commissioners of the City of Long Beach Restating The
20 Emergency Water Conservation Plan and Rescinding Resolution Nos. WD-990, WD-994,
21 WD-1005 and WD-1020"; and

22 WHEREAS, on November 3, 2005, the Board adopted Resolution No. WD-
23 1209 entitled "A Resolution of the Board of Water Commissioners of the City of Long
24 Beach Adopting a Water Conservation and Water Supply Shortage Plan, and Rescinding
25 Resolution No. WD-1071"; and

26 WHEREAS, the Board wishes to amend the Water Conservation and Water
27 Supply Shortage Plan;

28 NOW, THEREFORE, the Board of Water Commissioners of the City of

1 Long Beach resolves as follows:

2 Section 1. Scope. There is hereby established a Water Conservation and
3 Water Supply Shortage Plan (the “Plan”).

4 Section 2. Objectives. The objectives of the Plan are:

5 (a) To prevent water supply shortages through aggressive and
6 effective water management programs such as conjunctive use, water conservation,
7 water education and use of reclaimed water;

8 (b) To minimize the impact of a water supply shortage on the
9 City’s population and economy;

10 (c) To provide first for public health and fire protection and other
11 essential services, then to provide for the economic health of the City, and then to
12 provide for other uses of water; and

13 (d) To ensure that water users who conserve water during
14 normal-year hydrology and wet-year hydrology are not disadvantaged by the Plan during
15 shortages.

16 Section 3. Public Communication. When a Stage 1 Water Supply
17 Shortage, a Stage 2 Water Supply Shortage, or a Stage 3 Water Supply Shortage is in
18 effect, the Long Beach Water Department (“Department”) will inform its customers of the
19 effective date, of the prohibited uses of water associated with the relevant Stage and will
20 encourage its customers to take additional voluntary actions to conserve water.

21 The Department will inform and prepare its customers about possible
22 restrictions on use of water and rate increases related to the higher levels of water
23 conservation required by this Plan. The Department will continue to educate its
24 customers for the duration of an imminent and actual water supply shortage. The
25 Department will communicate effectively with its diverse customer base.

26 Section 4. Prohibited Uses of Water at All Times. The following uses of
27 water are prohibited at all times:

28 (a) Permitting the excess use, loss or escape of water through

1 breaks, leaks or other malfunctions in the water user’s plumbing or distribution system for
2 any period of time after such escape of water should have reasonably been discovered
3 and corrected;

4 (b) Watering or irrigating lawns, turf, or landscape areas beyond
5 saturation causing significant runoff, as determined by the Long Beach Water
6 Department (“Department”);

7 (c) Operating a fountain or other water feature that does not re-
8 circulate the water;

9 (d) Washing a vehicle with a hose when the hose does not have
10 a water shut-off nozzle or device attached to it or allowing a hose to run continuously
11 while washing a vehicle;

12 (e) Using potable water, rather than reclaimed water, after the
13 Department has provided to the customer an analysis showing that reclaimed water is a
14 cost-effective alternative to potable water and the customer has had a reasonable
15 amount of time, as determined by the General Manager of the Department or the General
16 Manager’s designee (collectively, “General Manager”), to make the conversion to
17 reclaimed water;

18 (f) For water customers that are a hotel or motel, failing to
19 provide customers the option of choosing not to have towels and linens laundered daily.
20 The hotel or motel shall prominently display notice of this option in each bathroom and
21 sleeping room using clear and easily understood language. The Department shall make
22 suitable displays available.

23 Section 5. Prohibited Uses of Water Effective in One Year. Effective one
24 (1) year after the adoption of this Resolution, the following uses of water are prohibited:

25 (a) Installation of single pass cooling systems in buildings
26 requesting new water connections; and

27 (b) Installation of non-recirculating systems in new conveyor car
28 wash systems and new commercial laundry systems.

1 Section 6. Prohibited Use of Water Effective in Four Years. A. Effective
2 four (4) years after the adoption of this Resolution, all conveyor car wash systems shall
3 have installed and operational water recycling systems, or shall have secured a waiver of
4 this requirement from the General Manager.

5 B. Water Rates for Prohibited Use. Conveyor car wash systems
6 that fail to meet this requirement within the time limit stated above shall be charged the
7 Tier III water rate beginning four (4) years after the effective date of this Resolution and
8 will continue at that rate until the conveyor car wash system meets this requirement.

9 Section 7. Imminent Water Supply Shortage. A. The Board shall declare
10 an Imminent Water Supply Shortage by resolution when the Board determines, in its sole
11 discretion, that a declaration will help to avoid or lessen the impact of an imminent water
12 supply shortage. The type of event which may prompt the Board to declare an Imminent
13 Water Supply Shortage may include, among other factors, a finding that its wholesale
14 water provider calls for extraordinary water conservation.

15 B. In addition to the prohibited uses of water identified in Sections 4,
16 5, and 6, the following uses of water are prohibited during a declared Imminent Water
17 Supply Shortage, as defined below:

18 (1) Serving drinking water to any customer in a restaurant
19 or other public place where food is served, sold, or offered for sale unless expressly
20 requested by the customer. The Department shall make “table tents” alerting customers
21 to this restriction available to restaurants and these types of other public places;

22 (2) Operating a non-water conserving pre-rinse nozzle in a
23 food-preparation establishment, such as a restaurant or cafeteria;

24 (3) Washing driveways, sidewalks, parking areas, patios or
25 other outdoor areas with water from a pressurized source, such as a garden hose, except
26 as approved in writing by the General Manager when required to eliminate conditions that
27 threaten public health, safety or welfare;

28 (4) Irrigating landscape with potable water any day other

1 than Monday, Thursday, or Saturday, except for very short periods of time for the
2 expressed purpose of adjusting or repairing the irrigation system;

3 (5) Irrigating landscape with potable water between the
4 hours of 7:00 a.m. and 6:00 p.m.;

5 (6) Irrigating landscape with potable water using stream
6 rotator-type or gear-driven sprinklers for more than fifteen (15) minutes per watering day
7 per station, or for more than ten (10) minutes per watering day per station for all other
8 types of sprinklers. Exempt from these landscape irrigation restrictions are irrigation
9 systems using very low-flow drip-type irrigation when no emitter produces more than two
10 (2) gallons of water per hour;

11 (7) Operating an irrigation system which, in the
12 determination of the General Manager, is significantly water-inefficient by virtue of any or
13 all of the following: excessive over spray, misting, over pressurization, misaligned or tilted
14 spray heads, or any other malfunction or out-of-adjustment condition;

15 (8) Irrigating landscape using reclaimed water to the point
16 that the landscape becomes saturated and irrigation waters flow off the landscape.

17 C. Publication. The Board shall publish the declaration of an
18 Imminent Water Supply Shortage in a local newspaper of general circulation, including
19 the implementation date of the declaration.

20 Section 8. Stage 1 Water Supply Shortage. A. The Board may declare by
21 resolution that a Stage 1 Water Supply Shortage exists, in its sole discretion, and that
22 the actions outlined in this Section are necessary. The type of event which may prompt
23 the Board to declare a Stage 1 Water Supply Shortage includes, among other factors, an
24 allocation of water by the Department's wholesale water provider.

25 B. Prohibited Uses of Water in a Stage 1 Water Supply Shortage. In
26 addition to the prohibited uses of water identified in Sections 4 and 7, the following uses
27 of water are prohibited during a Stage 1 Water Supply Shortage:

28 (1) Irrigating landscape with potable water any day other

1 than Monday or Thursday, beginning on the first day of October through the end of the
2 last day of the following March, except for very short periods of time for the expressed
3 purpose of adjusting or repairing the irrigation system;

4 (2) Filling residential swimming pools and spas with
5 potable water;

6 (3) Other prohibited uses as determined by the Board,
7 after notice to customers.

8 C. Water Rates. During a Stage 1 Water Supply Shortage, the
9 Board may increase water rates, other than Tier 1 or life-line rates and reclaimed water
10 rates, by an amount necessary, as determined by the Board. The increase in water
11 rates, which could average approximately 10%, may vary among categories of
12 customers. Examples of categories are single family residential, duplex residential, multi-
13 family residential, other residential, commercial, industrial, irrigation, and fireline.

14 D. Publication. The Board shall publish the declaration of a Stage 1
15 Water Supply Shortage in a local newspaper of general circulation, including the
16 implementation date of the declaration.

17 Section 9. Stage 2 Water Supply Shortage. A. The Board may declare by
18 resolution that a Stage 2 Water Supply Shortage exists, in its sole discretion, and that
19 the actions outlined in this Section are necessary.

20 B. Prohibited Uses of Water in a Stage 2 Water Supply Shortage. In
21 addition to the prohibited uses of water identified in Sections 4 and 7, the following uses
22 of water are prohibited during a declared Stage 2 Water Supply Shortage:

23 (1) Irrigating landscape with potable water any day other
24 Monday or Thursday, except for very short periods of time for the expressed purpose of
25 adjusting or repairing the irrigation system;

26 (2) Filling residential swimming pools and spas with
27 potable water;

28 (3) Other prohibited uses as determined by the Board,

1 after notice to customers.

2 C. Water Rates. During a Stage 2 Water Supply Shortage, the
3 Board may increase water rates, other than Tier 1 or life-line rates and reclaimed water
4 rates, by an amount necessary, as determined by the Board. The increase in water
5 rates, which could average approximately 15% above the pre-shortage rates, may vary
6 among categories of customers.

7 D. Publication. The Board shall publish the declaration of a Stage 2
8 Water Supply Shortage in a local newspaper of general circulation, including the
9 implementation date of the declaration.

10 Section 10. Stage 3 Water Supply Shortage. A. The Board may declare
11 by resolution that a Stage 3 Water Supply Shortage exists, in its sole discretion, and that
12 the actions outlined in this Section are necessary.

13 B. Restrictions and Rates. During a Stage 3 Water Supply
14 Shortage, the Board may, in its sole discretion, impose additional restrictions or
15 prohibitions on the use of water and make additional adjustments to the water rates.

16 C. Publication. The Board shall publish the declaration of a Stage 3
17 Water Supply Shortage in a local newspaper of general circulation, including the
18 implementation date of the declaration.

19 Section 11. Sudden Catastrophic Water Supply Shortage. When the
20 General Manager determines that a sudden event has, or threatens to, significantly
21 diminish the reliability or quality of the City's water supply, then the General Manager
22 may declare a Catastrophic Water Supply Shortage and impose whatever emergency
23 water allocation or conservation actions deemed necessary, in the General Manager's
24 professional judgment, to protect the reliability and quality of the City's water supply, until
25 the emergency passes or the Board takes other action.

26 Section 12. Notification and Water Usage Charge for Prohibited Uses of
27 Water.

28 A. Notification.

1 (1) When a prohibited use of water occurs, the Department
2 will notify the customer of the problem with suggestion(s) for solving the problem. The
3 notice will inform the customer that a second notice could be sent if the prohibited use
4 continues, and that a third and subsequent notices will include a Water Usage Charge. If
5 the notice is related to run-off or landscape irrigation, the notice may include an offer to
6 provide a free analysis of the irrigation system and other water uses by the customer.

7 (2) If the Board or General Manager has not declared a
8 water supply shortage, the customer will have fourteen (14) days after the effective date
9 of the first notice to solve the problem if significant capital costs are not required, as
10 determined by the General Manager, and up to one hundred eighty (180) days after the
11 effective date of the first notice if significant capital costs are required to solve it. An
12 example of significant capital costs include, but are not limited to, the complete
13 rehabilitation of an irrigation system. If significant capital costs are required in order for
14 the customer to solve the problem, the General Manager will indicate on the notice the
15 date by which the prohibited use of water must cease before the second notice may be
16 sent. In determining this date, the General Manager may consider, among other factors,
17 the total cost of the project, whether the customer has cooperated with a water use study,
18 if appropriate, and the quantity of water expected to be wasted before the project is
19 complete.

20 (3) If the Board or General Manager has declared a water
21 supply shortage, the customer will have seven (7) days after the effective date of the first
22 notice to solve the problem if significant capital costs are not required, as determined by
23 the General Manager, and up to one hundred twenty (120) days after the effective date
24 of the first notice if significant capital costs are required to solve it. If significant capital
25 costs are required in order for the customer to solve the problem, the General Manager
26 shall indicate on the notice the date by which the prohibited use of water must cease
27 before the second notice may be sent. In determining this date, the General Manager
28 may consider, among other factors, the total cost of the project, whether the customer

1 has cooperated with a water use study, if appropriate, and the quantity of water expected
2 to be wasted before the project is complete.

3 (4) If a second notice is issued within 18 months after a
4 previous notice for the same kind of prohibited use, then the notice will inform the
5 customer that a third and subsequent notices may be sent in 7-day intervals, with an
6 increase in the Water Usage Charge for each subsequent notice.

7 (5) If a third and subsequent notice(s) are issued for the
8 same type of prohibited use within 18 months after the previous notice, then the notice
9 will inform the customer that subsequent notices may be sent in 7-day intervals, with an
10 increase in the Water Usage Charge for each subsequent notice. And, the notice may
11 inform the customer that a flow restriction device may be installed or the service may be
12 terminated, at the discretion of the General Manager, and that the customer shall be
13 required to pay the cost of these actions and the cost of restoring the connection to full
14 service.

15 (6) If a customer has filed for relief from compliance, then
16 a second, third or subsequent notice will not be issued until a determination on that relief
17 has been made by the General Manager. If the determination of the General Manager in
18 denying relief is overturned by action of the Board, then any notices given after the
19 determination of the General Manager shall be rescinded and LBWD will refund any
20 charges imposed by those notices.

21 B. Water Usage Charge. The Water Usage Charge shall equal the
22 number of notices, minus two, multiplied by the Base Charge, where the Base Charge is
23 equal to the following:

- 24 (1) Prior to Stage 1: Base Charge = \$50.00
25 (2) Stage 1: Base Charge = \$100.00
26 (3) Stage 2: Base Charge = \$150.00
27 (4) Stage 3: Base Charge = \$200.00 unless determined

28 otherwise by the Board prior to during the Stage 3 Water Supply Shortage.

1 For example, the Water Usage Charge associated with a third notice in
2 Stage 1: $(3 - 2) \times \$100 = \100 ; the charge associated with the 5th notice in Stage 1: $(5 -$
3 $2) \times \$100 = \300 .

4 Failure to pay these charges may subject the customer to termination of
5 water service. If water service is terminated pursuant to this Plan, the Department will
6 not restore water service until the General Manager has determined that the customer
7 has provided reasonable assurances that future violations of the Plan will not occur and
8 that any unpaid charges have been paid in full. In addition, the General Manager may
9 require a security deposit.

10 Section 13. Reduce or Terminate Water Service. Depending on the
11 severity of the prohibited use of water and the seriousness of the water supply shortage
12 or imminent water supply shortage, the General Manager may cause the installation of a
13 flow restriction device or may have the water service terminated. The General Manager
14 shall give fourteen (14) days notice that these actions may be taken unless, in the
15 General Manager's discretion, the severity of the misuse or the severity of the shortage
16 mandates a shorter period of time.

17 The customer shall pay the cost of restricting the flow or terminating the
18 service and shall pay the cost of re-installing full service, prior to the restoration of full
19 service.

20 Section 14. Relief from Compliance. A. A customer shall have the right to
21 a hearing to obtain relief from compliance with the Plan by filing a written request for
22 hearing on a form provided by the Department within fourteen (14) days after the
23 effective date of the notice if the requested relief is related to a prohibited water use or
24 thirty (30) days after the billing date if the requested relief is related to an increase in the
25 water bill associated with a water rate increase implemented as part of this Plan.

26 B. To the extent possible, the hearing shall be held by the General
27 Manager within fourteen (14) days after receipt of the request, provided that all
28 information requested on the form has been completed.

1 C. In determining whether or not to grant relief, the General
2 Manager shall consider all relevant factors including but not limited to:

3 (1) In the case of a request of relief from a high water bill,
4 whether the customer's total water bill was significantly greater than the bill normally
5 received, coupled with a compelling reason for the account not conserving an amount of
6 water such that, had it been conserved, the total bill would not have been significantly
7 greater than the normal bill.

8 In order to grant relief, the General Manager must find that the customer
9 fully cooperated with the Department in its investigation. The General Manager may
10 grant relief of any portion of the high water bill and may grant relief of a portion of future
11 water bills for up to two (2) years into the future. If the conditions on which relief were
12 granted change during that period, the customer must notify the Department within thirty
13 (30) days. Failure to notify the Department may result in immediate revocation of the
14 relief granted.

15 (2) In the case of a request of relief from a water usage
16 charge related to a prohibited use of water, the General Manager may grant partial or
17 total relief, at the General Manager's discretion, if the General Manager finds that a
18 reasonable attempt, as determined by the General Manager, was made to mitigate the
19 prohibited use of water, prior to the imposition of the charge.

20 (3) The General Manager may grant relief from the water
21 usage charge or a high bill when, at the General Manager's determination, doing so is in
22 the public interest.

23 D. The General Manager shall give to the customer notice of the
24 decision, including notice of the customer's right to appeal the decision to the Board. No
25 customer shall appeal to the Board prior to receipt of a decision from the General
26 Manager.

27 Section 15. Notice. Except as otherwise provided in the Plan, all notices
28 given under the Plan shall be in writing and personally delivered to the customer at the

1 customer's billing address or deposited in the U.S. Postal Service, first class, postage
2 prepaid, addressed to the customer at the customer's billing address and addressed to
3 the Department at 1800 East Wardlow Road, Long Beach, CA 90807, Attention: General
4 Manager. Notice shall be effective on the date personal delivery is made or the date on
5 which the notice is deposited in the mail, whichever occurs first. If the customer is absent
6 from his/her residence or place of business so that personal delivery cannot be made,
7 notice may be given by leaving a copy with a responsible person at either place and then
8 sending a copy by regular mail addressed to the customer at the billing address or, if the
9 residence or place of business cannot be ascertained or a responsible person cannot be
10 found there, then notice may be given by affixing a copy in a conspicuous place on the
11 property where the prohibited use of water occurred and delivering a copy to a person
12 residing there is such person can be found and sending a copy by regular mail addressed
13 to the customer at the billing address.

14 Section 16. Reservation of Rights. The rights of the Department shall be
15 cumulative to any other right of the Department stated in its "Rules, Regulations and
16 Charges Governing Potable Water, Reclaimed Water, Sewer and The Emergency Water
17 Conservation Plan" ("Rules and Regulations").

18 Section 17. Exceptions. The prohibited uses of water in this Plan are not
19 applicable to that use of water necessary, as determined by the General Manager, for
20 public health and safety or for essential governmental services such as police, fire, and
21 other similar emergency services.

22 Section 18. General Provisions. A. Nothing contained in this Plan shall be
23 construed to require the Department to curtail the supply of water to any customer when,
24 in the discretion of the General Manager, that water is required by that customer to
25 maintain an adequate level of public health and safety.

26 B. Any term not defined in this Plan which is defined in the then
27 current Rules and Regulations of the Department shall have the meaning stated in those
28 Rules and Regulations.

OFFICE OF THE CITY ATTORNEY
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1 C. This Plan shall apply to all customers and property receiving
2 water from the Department wherever situated, and shall also apply to all property and
3 facilities owned, maintained, operated or under the jurisdiction of the various officials,
4 boards, departments, bureaus or agencies of the City.

5 D. If any section, subsection, sentence, clause or phrase in this Plan
6 or the application of it to any person or circumstances is for any reason held invalid, the
7 validity of the remainder of this Plan or the application of such provision to other persons
8 or circumstances shall not be affected. The Board declares that it would have passed
9 this Plan and each section, subsection, sentence, clause, and phrase in it irrespective of
10 the fact that one or more sections, subsections, sentences, clauses, or phrases or the
11 application of them to any person or circumstances be held invalid.

12 Section 19. Resolution No. WD-1209 is hereby rescinded and superseded

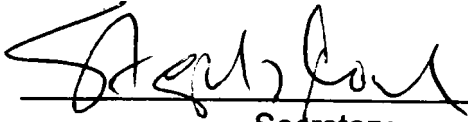
13 The Secretary of the Board of Water Commissioners shall certify to the
14 passage of this Resolution, cause a notice of same to be published one time only in a
15 newspaper of general circulation in the City, and it shall take effect immediately on the
16 Secretary's certification.

17 I hereby certify that this resolution was adopted by the Board of Water
18 Commissioners of the City of Long Beach at its meeting on June 21, 2007, by
19 the following vote:

20 Ayes: Commissioners: CLARKE; TOWNSEND;
21 CONLEY; HANSEN

22
23 Noes: Commissioners: NONE

24 Absent: Commissioners: 1 VACANCY

25
26 
27 Secretary
28 BOARD OF WATER COMMISSIONERS