

ORDINANCE NO. 69

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA REGARDING WATER USE EFFICIENCY MANAGEMENT

This Ordinance shall establish the Water Use Efficiency Policy of the Lake Arrowhead Community Services District (“District”).

RECITALS

WHEREAS, on January 13, 2006, the State Water Resources Contract Board (“State Board”), issued Order WR 2006-0001 (“Order”). The Order, while upholding the District’s pre-1914 water rights for consumptive purposes, presently limits the District to withdrawals up to 1,566 acre feet per year from Lake Arrowhead commencing in 2008; and

WHEREAS, for the last 5 calendar years (2003 – 2007), the District’s total water demands ranged from approximately 2,300 to 2,700 acre feet. During a year with average precipitation, the District has the following sources and approximate amounts of water suitable for potable use available to service its Customers on a calendar year basis: surface water from Lake Arrowhead (up to 1,566 acre feet per calendar year), State Water Project water delivered by Crestline Lake Arrowhead Water Agency (“CLAWA”) (760 acre feet per calendar year for a contract term of 10 years), State Water Project water delivered by CLAWA (62 acre feet per calendar year for CLAWA overlap customers within the District’s boundaries) , and ground water from District owned wells (185 acre feet per calendar year). State Water Project water and ground water from the District’s wells may be negatively impacted in years of below average precipitation and is therefore interruptible; and

WHEREAS, in years when the District’s Annual delivery from CLAWA exceeds 760 feet, less water is necessarily available during the remaining term of the CLAWA contract; and

WHEREAS, Water Code Section 350 provides that the District may declare a water shortage emergency to prevail within the area it serves when it finds that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply; and

WHEREAS, Water Code Section 353 provides that once the District has declared such a water shortage emergency, it shall adopt such regulations and restrictions on the delivery and consumption of water to conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection; and

WHEREAS, Water Code Section 375 et seq. provides that the District may adopt an ordinance that establishes a water conservation program that may require, among other regulations, the installation of water-saving devices which are designed to reduce water consumption; and

WHEREAS, due to the limitation imposed upon the District by the Order, the present non-permanent and non-reliable availability of other sources for water and the current demands on the District for water, in a dry year or multiple dry year period, the available supply of water may be less than necessary to satisfy all needs of the District’s present and/or future Customers for all current water usages. Consequently,

until the District secures a predictable and reliable source or sources of water, there is an immediate water shortage, necessitating conservation efforts and restrictions on unnecessary or non-essential uses of water to ensure that the District has sufficient water supplies for human consumption, sanitation and fire protection; and

WHEREAS, on May 9, 2006, the District determined and declared a water shortage emergency and adopted Ordinance No. 65 establishing a Water Connection Policy of the District. Ordinance 65 established a yearly maximum limit of sixty (60) new permits for service within the Arrowhead Woods Certified Water Service Area; and

WHEREAS, on June 27, 2006, the District adopted Resolution 2006-07 again declaring a water shortage emergency condition pursuant to Water Code Section 350 et seq.; and

WHEREAS, on June 27, 2006, concurrently with the declaration of water shortage emergency, the District adopted Resolution 2006-08 that implemented certain landscape restrictions; and

WHEREAS, California Constitution article X, section 2 provides that because of conditions prevailing in the State, the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, Water Code section 106 provides that it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, the unrestricted use of District water for irrigation of landscaping (that is not necessary for fire protection or erosion control) is a nonessential use. If such use is regulated, prohibited or restricted during the period of the water shortage emergency, such regulations, prohibitions and restrictions will assist in the conservation of water for domestic use, sanitation and fire protection and will assist in minimizing the wastage of District water; and

WHEREAS, the three purposes of this Ordinance, which is adopted pursuant to Water Code Section 375, et seq., are: (1) to conserve the District's water supply for the greatest public benefit by providing for water conservation under the declaration of a water shortage emergency condition in order to minimize the effect of a shortage of water to the Customers of the District (2) to adopt provisions that will change the water-use habits of Customers to significantly reduce the consumption of water for the long term human consumption, sanitation and fire protection of the Customers (3) to consolidate all of the water conservation policies and regulatory measures of the District in one ordinance; and

WHEREAS, upon adoption, this Ordinance shall be effective immediately. Within 10 days after its adoption, this Ordinance shall be published in the local newspaper. Upon the effective date of this Ordinance, this Ordinance shall supersede and otherwise have control over the following ordinance: Ordinance Number 58 ("Previous Ordinances"). Upon the effective date of this Ordinance, this Ordinance shall supersede and otherwise have control over Resolution Number 2006-08 ("Previous Resolution"). Upon the effective date of this Ordinance, the Previous Ordinance and Previous Resolution, to the extent they are inconsistent with any provisions herein, shall be of no further force or effect; and

THE BOARD OF DIRECTORS OF THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT ORDAINS AS FOLLOWS:

**SECTION 1
INCORPORATION OF RECITALS**

The recitals set forth above are true and correct and incorporated herein and made part of this Ordinance.

**SECTION 2
DEFINITIONS**

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section unless from the context a different meaning is intended, or unless a different meaning is specifically defined within individual Sections of this Ordinance:

“Billing Unit” means the unit used to apply water rates for purposes of calculating commodity charges for Customer water use and equals one hundred (100) cubic feet (CCF) or approximately seven hundred forty-eight (748) gallons of water.

“Board” means Board of Directors of the Lake Arrowhead Community Services District.

“Certificated Water Service Area” means the geographical area for which the District supplies water, commonly referred to as the Arrowhead Woods Certified Water Service Area.

“Customer” means any person, persons, entity, association, corporation or governmental agency or any other entity or user supplied with water service by the District within the Certificated Water Service Area or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

“District” means the Lake Arrowhead Community Services District.

“General Manager” means the General Manager of the Lake Arrowhead Community Services District.

“Gray Water” is defined as untreated wastewater which has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and which does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Gray water includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs but does not include wastewater from kitchen sinks or dishwashers.

“Hardscape” refers to all impermeable surfaces included as a permanent part of a Customer's landscaping including erosion control installations, sidewalks, driveways, decorative paving and patios.

“His” as used herein includes masculine or feminine, as appropriate.

“Improved zone” means the portion of the Property Owner or Customer’s parcel that is landscaped and irrigated with District water.

“Landscaping” means the installation and maintenance of some combination of organic plant material that includes trees, shrubs, vines, ground covers, annuals, perennials and lawns and also includes outdoor decorative features or structures that use District water such as, but not limited to, fountains, ponds and waterfalls.

“Existing landscaping” as used herein refers to landscaping that currently exists and which has been consistently maintained on the current Property Owner’s or Customer’s parcel with District water.

“Natural zone” as used herein refers to the area of the Property Owner’s or Customer’s parcel which is only planted with native trees and shrubs and irrigated with District water by bubbler only until trees and shrubs are established.

“Ordinance” means the Water Use Efficiency Policy Ordinance of the Lake Arrowhead Community Services District.

“Property Owner” means the record owner or owners of real property based on the San Bernardino County Assessor’s records.

“Section” means a Section of this Ordinance unless some other ordinance or statute is specifically mentioned.

“Recycled Water” under California law means water, which, as a result of treatment of waste, is suitable for a directly beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

“Vehicles” means automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment.

SECTION 3 AUTHORIZATION

The General Manager and his designees are hereby authorized and directed to immediately implement the applicable provisions of this Ordinance upon the effective date hereof.

SECTION 4 APPLICATION

The provisions of this Ordinance shall apply to all Customers and property served by the District within the District's Certificated Water Service Area boundaries. Nothing in this Ordinance is intended to affect or limit the ability of the District to respond to an emergency, including an emergency that affects the ability of the District to supply water.

**SECTION 5
PERMANENT WATER USE RESTRICTIONS
APPLICABLE TO ALL CUSTOMERS**

Pursuant to the Recitals above, the Permanent Water Use Efficiency Policy immediately requires the following restrictions on District water use based on the declaration that water use in contravention of these practices constitutes a waste of District water and use of District water that is unnecessary and/or non-essential.

A OUTDOOR CLEANING PRACTICES

1. There shall be no hose washing of any hard or paved surfaces including, but not limited to sidewalks, walkways, driveways, parking areas, patios, porches, decks, and verandas, except that, flammable or other dangerous substances may be, if otherwise permitted by law, disposed of by direct hose flushing for the benefit of public health and safety. Sweeping is encouraged for routine maintenance. Washing patios, porches, decks and verandas shall be by bucket and mop or high-pressure washer only.
2. No water shall be used to clean, fill or maintain levels in decorative fountains, ponds, lakes or similar structures used for aesthetic purposes unless such water is part of a recirculation system.
3. Vehicles may be hand washed using a bucket while parked on residential properties. Rinsing may be done by using a leak free hose equipped with a positive shut off nozzle, but not in a manner that causes or allows excess water to flow or runoff onto an adjoining sidewalk, street, gutter or ditch.

B HOSPITALITY INDUSTRY STANDARDS

No restaurant, hotel, cafe, cafeteria or other public place where food is sold, served or offered for sale, shall serve drinking water to any person unless expressly requested.

C LEAK-FREE MAINTENANCE STANDARDS

No Customer of the District shall permit water to leak from any facility on the Customer's premises. A person may not:

1. fail to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
2. operate a permanently installed irrigation system with
 - a. a broken head resulting in any leakage;
 - b. a head that is out of adjustment and the arc of water from the spray head is over a street or parking lot; or

- c. a head that is misting because of high water pressure when the system is not in operation.

D IRRIGATION PRACTICES STANDARDS

1. Lawns, trees, shrubs and other landscaping may not be watered beyond what is needed for natural growth and to sustain life. Water may not be permitted to pool or collect to the point of run-off. No Customer shall water or irrigate any lawn, landscape, or other area in a manner that causes or allows excess water to flow or run-off onto an adjoining sidewalk, driveway, street, gutter or ditch.
2. It is provided further that commercial nurseries, landscape managers and professional gardeners holding a current Business License and acting for or on behalf of a Customer shall be exempt from the provisions of this subsection for the purposes of landscape maintenance, including the application of treatments such as pesticides and fertilizers. They shall, however, be subject to the provisions of this Ordinance when they are acting to set an irrigation system's regular watering schedule on behalf of a Customer.
3. The prohibited uses set forth in this subsection do not apply to Recycled or Gray Water. The use of Recycled or Gray Water shall be subject to the requirements and limitations as set forth by the applicable County and State regulatory authorities.
4. Between October 16th and April 30th, all outdoor irrigation shall be shut off and irrigation systems shall be winterized to prevent ruptured pipes and leaks. If a Customer's irrigation is still on as of October 16th or turned on prior to May 1st, the Customer's water meter is subject to being shut off by District staff after seventy two (72) hours written notice to the customer at his last known address and the Customer's failure to turn off the outdoor irrigation. If the District turns off a Customer's water meter pursuant to this Subsection, a shut off fee established by the District will be applied to the Customer's water account.
5. Automated irrigation of all landscapes, plants, trees and land may be done only between the hours of 6:00 p.m. and 8:00 a.m., with the exception of newly seeded plants and other new planting, which may be watered intermittently until rooting is established.
6. Outdoor irrigation shall only be allowed on the following days during the established irrigation season and hours:

Monday Wednesday Friday

E LANDSCAPING STANDARDS

1. No Customer shall use District water to irrigate property outside the boundaries of the parcel to which service is being delivered.
2. No new turf or lawn (seed or sod) that uses District water shall be installed or maintained by any District Customer (existing or new) until the water shortage emergency is declared over by the Board or this Section of the Ordinance is rescinded. This prohibition includes the one hundred fifty square feet of landscaping exempted by 4(a) and 5(a). The reseeding, installation of replacement sod and/or refurbishment of existing lawns are exempt from this

restriction provided the total existing square footage of sod or lawn is reduced by 50%. These restrictions do not apply to institutional Customers using recycled water.

3. No new water features that use District water, including, but not limited to ponds, waterfalls and fountains may be installed without a recirculation system.
4. The following provisions apply to customers without existing landscaping:
 - a. New landscaping that uses District water shall be limited to an improved zone that is no larger than 50% of the undeveloped area of the parcel, however, the improved zone shall not exceed 10,000 square feet. Planting in the improved zone is limited to the District's drought tolerant plant list, except for up to one hundred fifty square feet of the improved zone which may be planted and maintained with plant materials not on the District's drought tolerant plant list.
 - b. The natural zone must be at least 50% of the undeveloped area of the parcel. New trees in the natural zone may be planted to replace lost trees and are limited to the District's reforestation tree and native shrubs list. Trees must be spaced at least 20' apart and may be irrigated with District water by bubbler only. Irrigation that uses District water must be turned off permanently once trees and shrubs are established.
5. The following provisions apply to customers with existing landscaping:
 - a. For Customers with existing landscaping, the installation of landscaping that uses District water shall only be allowed in areas where existing landscaping is being replaced or refurbished and such landscaping shall not increase the square footage of a Customer's property that is dedicated to landscaping, shall not increase the use of District water and the landscaping used shall be limited to the District's reforestation tree and native shrubs list and drought tolerant plant list. Up to one hundred fifty square feet of said replaced or refurbished landscaping may be planted and maintained with plant materials not on the District's drought tolerant plant list.

F WATER USE EFFICIENCY AUDITS

Residential Customers whose annual water use is greater than 200 Billing Units (equals 0.46 ac/ft or 149,600 gallons) on any District account in two of the preceding three years are required to complete a water use efficiency audit performed by an independent water use efficiency professional approved by the District.

SECTION 6 PENALTIES

Except as provided herein, the penalties and regulatory fees for failure to comply with the required water use standards established pursuant to this Ordinance shall be cumulative within the separate provisions of this Ordinance.

A PENALTIES FOR VIOLATION OF PERMANENT WATER USE RESTRICTIONS

The penalties and regulatory fees to be imposed for violations of any of the provisions of this Ordinance shall be as follows:

1. For the first violation by any Customer of any of the provisions of this Ordinance, the District shall issue a written notice of the fact of such violation to the Customer.
2. For a second violation by any Customer of any of the provisions of this Ordinance within a calendar year, the District shall issue a written notice of the fact of such violation to the Customer and impose a penalty in the amount of 25% of the Customer's water consumption charges for the parcel of property where the violation occurred for the billing period in which the violation occurred.
3. For a third violation by any Customer of any of the provisions of this Ordinance within a calendar year, the District shall issue a written notice of the fact of such violation to the Customer and impose a penalty in the amount of 50% of the water consumption charges for the parcel of property where the violation occurred for the billing period in which the violation occurred.
4. For a fourth violation by any Customer of any of the provisions of this Ordinance within a calendar year, the District shall issue a written notice of the fact of such violation to the Customer and impose a penalty in the amount of 100% of the water consumption charges for the parcel of property where the violation occurred for the billing period in which the violation occurred.
5. After a fourth violation of any of the provisions of this Ordinance, the District shall issue a written notice of the fact of such violation to the Customer and may install a water flow restricting device of one gallon per minute (1 GPM) for service lines up to one and one-half inches (1-1/2") size and comparatively-sized restrictors for larger services or terminate a Customer's service, in addition to the regulatory fees and penalties provided for herein, upon a prior determination that the Customer has repeatedly violated this Ordinance or District rules and regulations regarding the conservation of water and that such action is reasonably necessary. A regulatory fee as established by the District's Rules and Regulations will be imposed on the Customer's account for any installation and removal of the flow restrictor or termination of District water service.

The water restrictor may be removed or water service restored after the Customer demonstrates that the cause of the violation has been corrected and that all fines, penalties and regulatory fees have been paid.

The above penalties and regulatory fees shall be cumulative and applied in addition to the current charges of the District for Customer water consumption, including tiered rates applying to higher levels of water consumption.

B PENALTIES FOR VIOLATION OF LANDSCAPING STANDARDS

1. If District water is used in violation of the landscaping standards set forth in Section Five, Paragraph E occurs, the following penalties and regulatory fees will be imposed:
 - a. The first violation will result in a written notification sent to the Customer specifying the violation. The Customer must immediately cease using District water for any prohibited purpose or be subject to additional penalties and regulatory fees.
 - b. After 10 days of the date of initial written notification of violation, the continued prohibited use of District water will result in written notice of intent to install a flow restrictor. If all prohibited use of District water has not ceased within 72 hours of written notice of intent to install a flow restrictor, installation will result, and, consistent with District Rules and Regulations, the cost of installation of the flow restrictor will be assessed to the Customer's account.
 - c. After 10 days of the date of installation of a flow restrictor, the continued prohibited use of District water will result in written notice of intent to shut off the affected water meter. If all prohibited use of District water has not ceased within 72 hours of written notice of intent to shut off the affected water meter, the meter will be turned off, and, consistent with District Rules and Regulations, a fee will be assessed to the Customer's account. The meter will not be reinstated until the violation has been corrected and all fines, penalties and regulatory fees have been paid.
2. The above penalties and regulatory fees shall be applied in addition to the current District charges for water consumption, including fixed charges and tiered rates that may apply to water consumption. The water restrictor will be removed or water service restored after the Customer demonstrates that the cause of the violation has been corrected and that all fines, penalties and regulatory fees and penalties have been paid.
3. The District will not be responsible for any damages incurred by or resulting to the landscaping, irrigation system, or property caused by the restrictions established herein or by the water meter being shut off.

C APPEAL OF PENALTIES

1. The imposition of any penalty shall be final and effective unless appealed in writing to the Board by the Customer or Property Owner within ten days following issuance of a written violation. Notice of the appeal must be filed in the District's main office using the appropriate form provided by the District, together with any required penalties and regulatory fees then due and owing, and shall be accompanied by a written statement setting forth the reasons why the imposition of the penalty and regulatory fees are inappropriate.

2. The appeal will be heard by the Board within 30 days from the filing of the notice of appeal, or as soon thereafter as the Board meets for a regularly scheduled board meeting. Notice of the hearing on the Customer's appeal shall be mailed to the Customer at least ten calendar days before the date fixed for the hearing. Any penalties or regulatory fees imposed will remain in effect pending the Board's determination of the appeal. The determination of the Board shall be conclusive. Notice of the determination of the Board shall be mailed to the Customer within 10 calendar days of such determination.
3. Failure of a Customer to file an appeal within the required time will result in a waiver of any right to further appeal.

SECTION 7 VARIANCE/EXEMPTION

Section 9.11 of the District's Rules and Regulations for Water and Wastewater Service will not apply to the restrictions created by this Ordinance, nor shall variances or exemptions be granted.

SECTION 8 SEVERABILITY

If any Section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of the Ordinance or the application of such provision to other persons or circumstances shall not be affected thereby. The Board hereby declares that it would have passed this Ordinance and each Section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more Sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.

SECTION 9 CONFLICTING PROVISIONS

If provisions of this Ordinance are in conflict with each other, any other resolution or ordinance of the District, or any State law or regulation, the more restrictive provisions shall apply.

ADOPTED by the Board of Directors of the Lake Arrowhead Community Services District at a Regular Meeting held on June 10, 2008, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Geoffrey K. Goss, President of the Board of Directors of the
Lake Arrowhead Community Services District.

ATTEST:

Kathleen Fankhauser, Secretary of the Lake Arrowhead
Community Services District and of the
Board of Directors thereof.

SEAL