

ORDINANCE NO. 2015-15

**ORDINANCE OF THE BOARD OF DIRECTORS OF
VALLEY CENTER MUNICIPAL WATER DISTRICT
AMENDING THE ADMINISTRATIVE CODE TO REVISE ARTICLE 230, WATER
SUPPLY MANAGEMENT AND SHORTAGE CONDITION RESPONSE PROGRAM**

BE IT ORDAINED by the Board of Directors of the VALLEY CENTER MUNICIPAL WATER DISTRICT as follows:

Section 1. That the Valley Center Municipal Water District's Administrative Code is amended to revise Article 230, Water Supply Management and Shortage Condition Response Program, as set forth in Exhibit A, attached hereto.

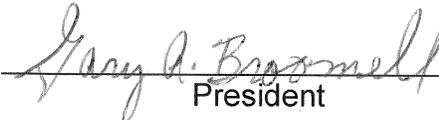
Section 2. That the modifications to the Administrative Code adopted as a result of this ordinance shall be effective immediately.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Valley Center Municipal Water District held on the 5th day of October, 2015, by the following vote, to wit:

AYES: Directors Broomell, Polito, Aleshire and Haskell

NOES: None

ABSENT: Director Stone



President

ATTEST:



Secretary

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.1 Declaration of Necessity and Intent

- (a) This Article establishes water management requirements necessary to sustain reliable water resources by encouraging reasonable water use efficiency and conservation measures and practices, impose water use restrictions when appropriate, and enable effective water supply planning. It will assure the reasonable and beneficial use of water, prevent waste of water, prevent the unreasonable use of water, and of a suspected or actual leak prevent the unreasonable method of use of water within the District. It will also serve to balance short and long-term water demands with available supplies and further the public health, safety, and welfare, recognizing that water is and will always be a valuable, scarce and limited natural resource that requires careful management at all times, irrespective of water supply availability or hydrologic conditions.
- (b) This Article establishes regulations to be implemented during times of normal water supply and hydrologic conditions as well as declared water shortages, or declared water shortage emergencies. It establishes four levels of water supply management and shortage response actions to be implemented, with increasing restrictions on water use for the District's customers and the District itself in response to worsening water supply conditions and decreased short-term, intermittent, and long-term water supply availability.
- (c) A Water Supply Management **Watch** Condition – Level 1 (“Level 1”) shall be deemed to exist at all times, irrespective of water supply availability or hydrologic conditions. During a “Level 1” condition, water conservation measures, efficient water use measures and water-use restrictions, are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District. During all other conditions—Water Supply Shortage **Alert** Condition (“Level 2”), Water Supply Shortage **Critical** Condition (“Level 3”), and Water Supply Shortage **Emergency** Condition (“Level 4”)—all prescribed water conservation measures, efficient water use measures and water-use restrictions, if deemed warranted, are mandatory unless excepted herein, and become increasingly restrictive in order to attain escalating water use efficiency and conservation goals.

Sec. 230.1 Declaration of Necessity and Intent (Cont'd)

- (d) The water use efficiency, conservation measures and water use restrictions established by this Article are mandatory, unless excepted herein, and violations are subject to criminal, civil, and administrative penalties and remedies specified in this Article and as provided in District Administrative or Municipal Code.

Sec. 230.2 Definitions

- (a) The following words and phrases whenever used in this chapter shall have the meaning defined in this Article:
1. "Construction Water" means water used for construction purposes, including, but not limited to grading, compaction, dust control, clean-up, and hydro-seeding, or other uses as determined by the General Manager.
 2. "Agricultural Water Use" refers to water used for the growing or raising, in conformity with recognized practices of husbandry, for the purpose of personal use, donation, commerce, trade, or industry, or for use by public, educational or correctional institutions, for agricultural, horticultural or floricultural products, and produced: (1) for the market, (2) for the feeding of fowl or livestock produced for human consumption or for the market, (3) for the feeding of fowl or livestock for the purpose of obtaining their products for the market, (4) for personal consumption, or (5) donation for consumption. Except where stated, provisions of this Article do not apply to Agricultural Water Use as defined herein.
 3. "Immediate Emergency" means a short-term operational limitation due to breakage or failure of dam, reservoir, aqueduct, pump, treatment system, pipeline, conduit, a natural or man-made disaster, or any other disruption of the District's water supply or delivery system.
 4. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, educational institutions, or any other user of water provided by the District.
 5. "State" means the state of California, including any department or regulatory agency thereof.

Sec. 230.2 Definitions (Cont'd)

6. “Water Authority” means the San Diego County Water Authority.
7. “Water Shortage Emergency” means a condition existing within the District in which the ordinary water demands and requirements of the persons within the District cannot be satisfied without depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation and fire protection. A water shortage emergency includes a threatened water shortage, in which the District determines that its supply cannot meet an increased future demand.

Sec. 230.3 Application

- (a) The provisions of this Article apply to any person in the use of any water provided by the District.
- (b) This Article is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.
- (c) Nothing in this Article is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water or limit the ability of the District to prevent what is determined to be a wasteful or unreasonable use of water even though it may not specifically be identified as such in this Article.
- (d) The provisions of this Article do not apply to use of water from private wells, surface sources or to reclaimed water.
- (e) Except where stated, nothing in this Article shall apply to Agricultural Water Use as defined in Section 230.2(a). All water used for non-agricultural purposes is subject to this Article including use of water subject to a special supply program such as the Water Authority Transitional Special Agricultural Water Rate Program (TSAWR) or the District Commercial Agricultural Full Price (CAFP) customer classification.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.3(c) & (e))

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.3 Application (Cont'd)

- (f) If the State or a wholesale water provider, through executive action, emergency legislation or other actions, imposes conditions, requirements, or procedures that are not included in this Article, the General Manager is authorized to implement such other actions, conditions, requirements or procedures as are reasonably required to bring the District, in each Water Supply Level, into functional conformity with such conditions, requirements, or procedures. In such an event, the General Manager shall notify the Board of Directors of any such implemented actions, conditions, requirements or procedures at the next regular Board Meeting unless a special meeting is warranted and called for by the Board President or Vice President in the President's absence.

Sec. 230.4 Water Supply Management Watch Condition – Level 1

- (a) A Level 1 exists at all times and irrespective of the availability of water supplies or hydrologic conditions, and the water use restrictions set out herein are best management practices.
- (b) During a Level 1, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to use water in a beneficial and non-wasteful manner by implementing the following voluntary water use and conservation practices:
 - 1. Not washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
 - 2. Preventing water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscape, roadways, or structures. This applies to any person using any water provided by the District including Agricultural Water Use.
 - 3. Irrigating residential and commercial landscape, outside ornamental landscape or turf grass, before 10:00 a.m. and after 4:00 p.m. only. Watering is permitted at any time when a drip/micro-irrigation system/equipment is used. This section shall not apply to Agricultural Water Use.
 - 4. Irrigation of potted plants is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used.

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.4 Water Supply Management Watch Condition – Level 1 (Cont'd)

5. Irrigate landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system on the same schedule set forth in section 230.4(b)(3) by using a bucket, or hand-held hose equipped with a positive shut-off nozzle.
6. Using re-circulated water to operate ornamental fountains.
7. Washing vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.
8. Repairing all water leaks within five (5) days of notification by the District of a suspected or actual leak unless other arrangements are made with the General Manager. This applies to any person using any water provided by the District including Agricultural Water Use.
9. Serving drinking water only upon customer request in all drinking and eating establishments, including restaurants, hotels, cafes, cafeterias, bars or other public places where food or drink are served and or purchased.
10. Hotels, motels, timeshares and resort facilities shall prominently display notice to their guests of the option of not having towels and linens laundered on a daily basis.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.4(b)5 & 8)

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.5 Water Supply Shortage Alert Condition – Level 2

- (a) A Level 2 condition may apply when the Water Authority notifies its member agencies that due to an actual or anticipated reduction in supplies to the Water Authority, when water supply conditions specific to the District have limited available water supplies and a commensurate consumer demand reduction of up to 20 percent is required in order to balance demands with supplies anticipated to be available for the foreseeable future, or as otherwise determined by the District's Board of Directors in its reasonable discretion. The District's Board of Directors shall declare the existence of a Level 2 and implement the mandatory Level 2 water conservation measures identified herein. Additionally, if the District's Board of Directors declares a Water Shortage Emergency in the manner and on the grounds provided in California Water Code section 350 *et seq.*, during a Level 2 condition, such declaration shall remain in effect during the period of emergency and until the supply of water available for distribution within the District has been replenished or augmented.
- (b) During a Level 2, all persons using District supplied water shall comply, on a mandatory basis, with conservation practices and measures required during a Level 1 and shall also comply with the following additional mandatory conservation measures to achieve up to a 20 percent reduction in demand:
1. Repairing all leaks within seventy-two (72) hours of notification by the District of a suspected or actual leak unless other arrangements are made with the General Manager. This applies to any person using any water provided by the District including Agricultural Water Use.
 2. Using recycled or non-potable water for construction purposes when available and economically feasible as determined by the applicant for the temporary construction water account.
 3. Limiting residential and commercial landscape irrigation, outside ornamental landscape or turf grass, to before 10:00 a.m. or after 4:00 p.m. only and to no more than ten minutes (10) or fewer per watering station for three (3) or fewer assigned days per week as specified on a schedule established by the General Manager and posted by the District; provided however, that landscape irrigation using a drip/micro-irrigation system/equipment is not subject to the ten minute (10) restriction. Watering shall be prohibited during and for 48-hours after measurable rainfall within the District. This section shall not apply to Agricultural Water Use.

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.5 Water Supply Shortage Alert Condition – Level 2 (Cont'd)

- (c) Unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager, upon declaration of Level 2, all non TSAWR meters without pre-existing allocations shall be provided an allocation of 10 Hundred Cubic Feet (HCF) per equivalent $\frac{3}{4}$ inch meter, per month for months in the base period for which there is no usage history or a usage history of less than 10 HCF. Such allocation shall be subject to future reductions as determined necessary by the Board of Directors as well as the appeal process provided for in Section 230.11 of this Article. Water allocations for meters in the TSAWR program shall be based upon water supply reduction plans adopted by the Board for those specific programs.

- (d) The following shall apply if the District's Board of Directors declares a Water Shortage Emergency in the manner and on the grounds provided in California Water Code Section 350, *et seq.*, during a Level 2:
 - 1. Unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager, upon the declaration of a Level 2, only existing and new annexation proposals which can provide to the District additional water resources offsetting the net water demand impact for the specific projects in the annexing area and providing 0.5 acre feet per year of additional supply per unit of development in the annexing area to meet firm Municipal and Industrial demands within the existing District service area will continue to be processed or have applications considered by the District. For the purposes of this subsection, "additional water resources" shall be defined as:
 - A. Water resources originating from outside the current service area of the District; and
 - B. Water resources resulting from financial support from the annexing lands for local water resource development opportunities within the District determined to be available for annexing territories. Local resource development opportunities available for annexing lands shall be identified after first determining the level of local resource development opportunities which may be required to accommodate development on lands currently within the District boundaries.

Per Ordinance No. 2015-06 Adopted 04/20/15 (Art. 230)

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.6 Water Supply Shortage Critical Condition – Level 3

- (a) A Level 3 may apply when the Water Authority notifies its member agencies that due to an actual or anticipated reduction in supplies to the Water Authority, or when water supply conditions specific to the District have limited available water and supplies and a commensurate consumer demand reduction of greater than 20 percent up to 40 percent is required in order to balance regional demands with supplies anticipated to be available for the foreseeable future, or as otherwise determined by the District's Board of Directors in its reasonable discretion. The District's Board of Directors shall declare the existence of Level 3 and implement the mandatory Level 3 conservation measures identified herein. Additionally, the District Board of Directors shall declare a Water Shortage Emergency upon adopting findings supporting a Water Shortage Emergency in a manner and on the grounds provided in California Water Code Section 350 *et seq.* If the District's Board of Directors declares a Water Shortage Emergency, such declaration shall remain in effect during the period of the emergency and until the supply of water available for distribution within the District has been replenished or augmented.
- (b) During a Level 3 all persons using District supplied water shall comply, on a mandatory basis, with conservation practices and measures required during Level 1 and Level 2, and shall also comply with the following additional mandatory conservation measures to achieve up to a 40 percent reduction in demand:
1. Limiting residential and commercial landscape irrigation, outside ornamental landscape or turf grass, to before 10:00 a.m. or after 4:00 p.m. only and to no more than ten minutes (10) or fewer per watering station for two (2) or fewer assigned days per week as specified on a schedule established by the General Manager and posted by the District provided however, that landscape irrigation using a drip/micro-irrigation system/equipment is not subject to the ten minute (10) restriction. This section shall not apply to Agricultural Water Use.
 2. Watering landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 230.6(b)(1), on the same schedule set forth in section 230.6(b)(1) by using a bucket, or hand-held hose with a positive shut-off nozzle.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.6(b)1 & 2)

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.6 Water Supply Shortage Critical Condition – Level 3 (Cont'd)

3. Not filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water supply shortage response level under this Article.
 4. Not washing vehicles except at commercial carwashes that recirculate water, or by high pressure/low volume wash systems.
 5. Repairing all leaks within forty-eight (48) hours of notification by the District unless other arrangements are made with the General Manager. This applies to any person using any water provided by the District including Agricultural Water Use.
 6. Using recycled or non-potable water for construction purposes as defined in Section 230.2 (a)(1) of this Article.
- (c) The following shall apply if the District's Board of Directors declares a Water Shortage Emergency in the manner and on the grounds provided in the California Water Code Section 350, *et seq.*, during a Level 3, unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager:
1. All new development processing, consisting of the issuance of new statements of ability to serve (PFA/PFC letters, Concept Approvals, or Agency Clearance letters) shall be subject to limitations. Only projects with:
 - A. Existing meter capacity; or
 - B. Those providing substantial evidence that net water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District through:
 - i. The development of local water resources or
 - ii. Participation in a local or regional net demand offset program,will continue to be processed.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.6(b)5)

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.6 Water Supply Shortage Critical Condition – Level 3 (Cont'd)

2. Only existing annexation proposals which can provide to the District additional water resources which offset the net water demand impact for the specific projects in the annexing area and provide 0.5 acre feet per year of additional supply per unit of development in the annexing area to meet firm Municipal and Industrial demand within the existing District service area will continue to be processed. For the purposes of this subsection, “additional water resources” shall be defined as water resources originating from outside the current service area of the Water Authority and not through participation in offset programs within the service area of the District or the Water Authority.

3. No new temporary or permanent potable water meters shall be provided, except under the following circumstances:
 - A. A new meter(s) has been purchased, a valid agency clearance letter or some other form of service commitment has been previously issued by the District, or meter is for a project meeting the requirements of subsection 230.6 (c)(1) and (c)(2), above. Meter(s) provided under this provision shall be subject to the conditions established in Section 230.5(c) of this Article above.

 - B. The meter(s) results from the downsizing of an existing larger meter and the new meter(s) is apportioned a share of the base year allocation of the pre-existing larger meter, or if there is no base year allocation for the pre-existing larger meter, then the new meter(s) is provided an allocation as determined by Section 230.5 (c) of this Article.

 - C. The meter is necessary to protect the public’s health, safety, and welfare.

Sec. 230.7 Water Supply Shortage Emergency Condition- Level 4

- (a) A Level 4 condition may apply when the Water Authority Board of Directors declares a Water Shortage Emergency and notifies its member agencies, when water supply conditions specific to the District have limited available water and supplies, that a demand reduction of more than 40 percent is required in order to balance regional demands with the supplies anticipated to be available to the Water Authority for the foreseeable future, or as otherwise determined by the District's Board of Directors in its reasonable discretion. The following shall apply if the District's Board of Directors declares a Water Shortage Emergency in the manner and on the grounds provided in the California Water Code Section 350, *et sec*, during a Level 4, unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager.

- (b) During a Level 4, all persons using District supplied water shall comply on a mandatory basis with conservation practices and measures required during Level 1, Level 2 and Level 3 and shall also comply with the following additional mandatory conservation measures to achieve a reduction of more than 40 percent in demand:
 - 1. Stopping all residential and commercial landscape, outside ornamental landscape or turf grass irrigation. This restriction shall not apply to the following categories of use:
 - A. Maintenance of trees and shrubs that are watered on the same schedule set forth in section 230.6 (b)(1) by using a bucket, or hand-held hose with a positive shut-off nozzle;
 - B. Maintenance of fire resistant landscaping necessary for fire protection as specified in writing by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;
 - C. Maintenance of existing landscaping for erosion control;
 - D. Maintenance of plant materials identified to be rare or essential to the well-being of rare animals;

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.7(b))

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.7 Water Supply Shortage Emergency Condition- Level 4 (Cont'd)

- E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days or fewer per week according to the schedule established under section 230.6 (b)(1);
 - F. Watering of livestock;
 - G. All Agricultural Water Use; and
 - H. Public works projects and actively irrigated environmental mitigation projects.
2. Repairing all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the General Manager. This applies to any person in the use of any water provided by the District including Agricultural Water Use.
- (c) Unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager, upon the declaration of a Water Shortage Emergency in the manner and on the grounds provided in California Water Code section 350 *et seq.*, during a Level 4, any and all development and annexation processing with associated direct water usage shall be terminated and no new temporary or permanent potable water meters shall be provided under any circumstance until the Level 4 condition abates, except for those meters required to protect public health and safety.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.7(b))

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.8 Procedures for Determination and Notification of Water Supply Shortage Condition Levels

- (a) A Level 1 is deemed to exist at all times.
- (b) Unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager, the existence of a Level 2, 3, or 4 condition may be declared by the Board of Directors by adoption of a resolution at a regular or special meeting held in accordance with State law.

Additionally, the Board may declare a Water Shortage Emergency in accordance with the procedures specified in California Water Code sections 351 and 352. Following at least a seven (7) day notice of the meeting at which the declaration will be made, the District Board of Directors may declare the existence of a Water Shortage Emergency during a Level 2, 3, or 4 by the adoption of a resolution at any regular or special meeting held in accordance with State law. The mandatory conservation measures applicable to a Level 4 condition shall take effect on the tenth (10) day after the date the response level is declared.

The General Manager may publish a notice of the determination of the existence of a Level 2, 3, or 4 in one or more newspapers, including a newspaper of general circulation within the District. The District may also post notice of the condition on their website. If the District establishes a water allocation, it shall provide notice by mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocations shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

- (c) If the water supply shortage requiring declaration of a Level 2, 3, or 4 is associated with an Immediate Emergency as determined by the General Manager, the General Manager shall have the authority to implement the measures necessary to balance available water supply and demand. The General Manager shall notify the Board of Directors of the conditions leading to the call for a Level 2, 3, or 4 as soon as possible, but no later than 24 hours after the physical system emergency or failure. Further, the General Manager shall provide the Board with a full report on the incident leading to the implementation of a Level 2, 3 or 4 at the next regular Board Meeting unless a special meeting is warranted and called for by the Board President or Vice President in the President's absence.

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.8 Procedures for Determination and Notification of Water Supply Shortage Condition Levels (Cont'd)

- (d) Unless the water supply shortage is associated with an Immediate Emergency as determined by the General Manager, the District Board of Directors may declare an end to a Level 2, 3, or 4 by the adoption of a resolution at any regular or special meeting held in accordance with State law. In the case of water supply shortage associated with an Immediate Emergency as determined by the General Manager, the General Manager may declare an end to a Water Supply Shortage Response level based upon the assessment of the water supply conditions specific to the District. The General Manager shall notify the Board of his actions to end a Water Supply Shortage Response in a manner consistent with the provisions in subsection 230.8(c).

Sec. 230.9 Hardship Variance

- (a) If, due to unique circumstances, a specific requirement of this Article would result in undue hardship to a person using agency water or to property upon which agency water is used, that is disproportionate to the impacts to District water users generally or to similar property or classes of water uses, then the person may apply for a variance to the requirements as provided in this section.
- (b) The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using agency water or to property upon which District water is used, that is disproportionate to the impacts to District water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.
 - 1. Application. Application for a variance shall be in a form prescribed by the District.
 - 2. Supporting Documentation. The application shall be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.

Per Ordinance No. 2015-06 Adopted 04/20/15 (Art. 230)

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.9 Hardship Variance (Cont'd)

3. Required Findings for Variance. An application for a variance shall be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the District, all of the following:
 - A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other District customers.
 - B. That because of special circumstances applicable to the property or its use, the strict application of this Article would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.
 - C. That the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the District to effectuate the purpose of this chapter and will not be detrimental to the public interest.
 - D. That the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.
4. Approval Authority. The General Manager or authorized designee shall exercise approval authority and act upon any completed application no later than 10 days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory Water Supply Shortage response.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.9(b)4)

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.10 Enforcement

- (a) As provided in California Water Code Section 377, any violation of Sections 230.5, 230.6, or 230.7 Water Conservation Measures of this Article is a misdemeanor. Upon conviction thereof, such person may be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding one thousand dollars (\$1,000) or both.
- (b) As provided in California Water Code Section 377, any person may be held civilly liable for violating Sections 230.5, 230.6, or 230.7 Water Conservation Measures of this Article or any emergency regulations adopted by the State Water Resources Control Board.
- (c) Each day that a violation of this Article occurs is a separate offense.
- (d) Prior to seeking criminal enforcement of the provisions of Sections 230.5, 230.6, and 230.7, the District may impose progressive civil penalties and restrictions for violations pursuant to the following enforcement measures for repeated violations:

- First Violation: Written warning
- Second Violation: Penalty of \$100 placed on the water bill
- Third Violation: Penalty of \$250 placed on the water bill
- Fourth Violation: Penalty of \$500 placed on the water bill, and installation of a flow restriction of 5 gallons per minute for 120 hours (5 days), and the customer will be charged for the installation and removal of the flow restrictor.
- Fifth Violation: Penalty of \$1,000 placed on water bill, complaint filed with the County of San Diego District Attorney's office, flow restriction imposed and sustained to 5 gallons per minute until disposition of complaint, and the customer will be charged for the installation and removal of the flow restrictor.
- Continuing Violation: The District may additionally impose a \$500 per day penalty for continuing violations beginning on the 31st day after the District notifies the person of the violation.

Article 230 Water Supply Management and Shortage Condition Response Program

Sec. 230.10 Enforcement (Cont'd)

The above penalties are independent of, and are in addition to, any volumetric penalties imposed in accordance with any allocation adopted by the District.

- (e) In addition or as an alternative, the District may install flow restrictors or discontinue water service at any time.
- (f) For each of the above-noted measures, a Complaint and Citation will be issued by a designee of the District's General Manager notifying the violator of the basis for the proposed civil liability order. Unless an appeal and/or hearing is requested pursuant to the provisions of Section 230.11(a) of this Article, on the 31st day following the issuance of the Citation and Complaint, the District's General Manager or authorized designee, shall issue a final order ("Final Order") setting the civil penalty.
- (g) Willful violations of the mandatory conservation measures and water use restrictions as set forth in Section 230.7, and applicable during a Water Supply Shortage Emergency Condition – "Level 4," when a Water Shortage Emergency Condition is declared pursuant to California Water Code section 350, et seq., may be enforced by discontinuing service to the property at which the violation occurs as provided by California Water Code section 356.
- (h) All remedies provided for herein shall be cumulative and not exclusive.
- (i) All revenues collected by the District from penalties imposed pursuant to this Section 230.10 may only be used for the purposes of furthering the provisions and goals of the District's Water Supply Management and Shortage Condition Response Program.

Sec. 230.11 Appeal Procedures

(a) Appeal of Section 230.10 Civil Penalties.

1. Any person (“Appellant”) may appeal any Citation and Complaint issued by a designee of the District’s General Manager pursuant to Section 230.10 of this Article. Any such appeal shall be made in writing on a form provided by the District to the Director of Finance, or authorized designee. All appeals shall be filed within 15 calendar days of the date of the Citation and Complaint. The Director of Finance or authorized designee shall then have 30 calendar days to render a written decision, granting or denying the appeal.
2. If the appeal is denied, the Appellant may, within 15 calendar days of the date of the decision of the Finance Director or authorized designee, request a hearing before the District’s General Manager, or authorized designee. The hearing shall not be held sooner than 30 days after the Citation and Complaint was issued, and the Appellant may present evidence in writing or in person. The District’s General Manager, or authorized designee, shall take into consideration all relevant circumstances in determining the amount of civil liability to assess, including but not limited to: (i) the nature and persistence of the violation; (ii) the extent of the harm caused by the violation; (iii) the length of time over which the violation occurs; and (iv) any corrective action taken by the violator. If a hearing is not timely requested or upon closing a completed hearing, the District’s General Manager, or authorized designee, shall issue an order within 10 calendar days of the hearing.
3. Within 15 calendar days of the issuance of the District General Manager’s order, the Appellant may appeal to the Board of Directors. Appeals to the Board of Directors will be placed on the agenda for review and action at a subsequent meeting of the Board of Directors. A decision by the Board of Directors shall be final. If an appeal is not timely requested, the order issued by the District’s General Manager is final. Any civil penalties imposed pursuant to the final decision are due and payable and shall be placed on the water bill. The provisions of Section 1094.5 of the Code of Civil Procedure of the State of California are applicable to judicial review of the final order.
4. During the appeal process, all provisions and decisions under appeal shall remain in full effect until the conclusion of the appeal process.

Sec. 230.11 Appeal Procedures (Cont'd)

(b) All other appeals:

1. Decisions made by District staff can be appealed in writing on a form provided by the District to the Director of Finance, or authorized designee. All appeals shall be filed within 15 calendar days of the date of the provision or decision being appealed. The Director of Finance or authorized designee shall then have 30 calendar days to render a written decision on the appeal.
2. Decisions by the Director of Finance or authorized designee may be appealed to the General Manager, or authorized designee, within 15 calendar days of the date of the decision by the Director of Finance or authorized designee. The General Manager or authorized designee shall then have 30 calendar days to render a written decision to the appeal of decision by the Director of Finance.
3. All decisions by General Manager or authorized designee may be appealed to the Board of Directors. Requests for appeals to the Board shall be made in writing within 15 days of the date of the decision by the General Manager or authorized designee and will be placed on an agenda for review and action at a subsequent meeting of the Board. The decision by the Board shall be final.
4. During the appeal process, all provisions and decisions under appeal shall remain in full effect until the conclusion of the appeal process.

Per Ordinance No. 2015-15 Adopted 10/05/15 (Sec. 230.11(b))