ORDINANCE NO. 2021-77 WWD

AN ORDINANCE OF THE WINDSOR WATER DISTRICT AMENDING TITLE XII, CHAPTER 3, ARTICLE 8, SECTION 815 OF THE CODE OF THE WINDSOR WATER DISTRICT TO ADD CLARIFYING LANGUAGE REGARDING WATER PERMIT ISSUANCE DURING WATER SHORTAGE LEVELS 1 THROUGH 3

WHEREAS, the Windsor Water District's ("District") Water Conservation Ordinance is set forth in Chapter 3 of Title XII of the Windsor Water District Code; and

WHEREAS, on July 21, 2021, the District will consider adoption of the 2020 Urban Water Management Plan and the 2020 Water Shortage Contingency Plan and Windsor Water District staff identified provisions that required revision to ensure consistency with State law mandating water shortage levels one through six; and

WHEREAS, the Board of Directors of the District desires to amend the Water Conservation Ordinance to codify the provisions of the Water Shortage Contingency Plan to ensure public health and safety in the event of water shortage caused by drought, delivery disruption, or natural disaster; and

WHEREAS, Maddaus Water Management prepared a report dated June 2021, entitled "Town of Windsor Water Shortage Contingency Plan" containing recommendations for declaring voluntary or mandatory water conservation in six levels, specifying wasteful water use during declared water emergencies, and providing enforcement and penalties for violations; and

WHEREAS, the District Engineer reviewed and recommends the Water Shortage Contingency Plan and the proposed implementing ordinance.

THE BOARD OF DIRECTORS OF THE WINDSOR WATER DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title XII, Chapter 3, Article 8, Section 800 of the Windsor Water District Code is amended to delete all text therein in its entirety, and to be read and replaced as follows:

> **12-3-800 – Purpose and Authority.**
>
> The purpose of this article is to conserve the water supply of the Town for the greatest public benefit with particular regard to public health, fire protection, and domestic use, to conserve water by reducing waste, and to the extent necessary by reason of the existing water shortage emergency condition to reduce water use fairly and equitably. This article is adopted pursuant to State Law including Water Code Sections 350 to and including 358, and Sections 31026 to and including 31029 and Water Shortage Contingency Plan Water Code Section 10632.

SECTION 2. Title XII, Chapter 3, Article 8, Section 815 of the Windsor Water District Code is amended to delete all text therein in its entirety, and to be read and replaced as follows:

d. Nothing herein shall prohibit or restrict any modification, relocation, or replacement of a connection to the Town's system if the Town Engineer determines that the demand upon the Town's water supply will not be increased thereby.

SECTION 3. Title XII, Chapter 3, Article 8, Section 820 of the Windsor Water District Code is amended to delete all text and tables therein in its entirety, and to be read and replaced as follows:

12-3-820 - Waste of Water Prohibited.

a. No water furnished by the Town shall be wasted. Waste of water includes, but is not limited to, the following:

1. Washing hard or paved surfaces is prohibited except to alleviate safety or sanitary hazards using a handheld container, hose with an automatic shut-off device, or a low-volume high-pressure cleaning machine that recycles used water.

2. Escape of water through breaks or leaks within the customer's plumbing or private distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. The reasonable time within which to correct such break or leak or, as a minimum, to stop the flow of water from such break or leak shall be as established in the Water Shortage Contingency Plan currently in effect.

3. Watering vegetated areas in a manner that causes excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter, or ditch is prohibited. Every customer is deemed to have the customer's water system under control at all times, to know the manner and extent of the customer's water use and any runoff, and to employ available alternatives to apply irrigation water in a reasonably efficient manner.

4. No landscape watering shall occur within 48 hours after measurable precipitation.

5. Washing or hosing down cars, boats, trailers or other vehicles is prohibited except by use of a handheld container, hose with an automatic shut-off device, or at a commercial car wash.

6. Cleaning, filling, or operating water features, such as decorative fountains, except where the water is part of a recirculating system.

7. Water for single-pass evaporative cooling systems for air conditioning in all connections installed after July 18, 2007, unless required for health or safety reasons.

8. Water for new non-recirculating conveyor car wash systems.

9. Water for new non-recirculating industrial clothes wash systems.

10. Lodging establishments must offer opt-out of linen service.

11. Water for construction dust control when recycled water is available.

b. Waste of water shall also include failure to put to reasonable beneficial use any water withdrawn from the Town's water system as determined by the Town Engineer.

SECTION 4. Title XII, Chapter 3, Article 8, Section 825 of the Windsor Water District Code is amended to delete all text therein in its entirety, and to be read and replaced as follows:

12-3-825 – Prohibition of Non-Essential Use of Water.

a. No water furnished by the Town shall be used for any purpose declared to be non-essential by this article. The restrictions in this section shall not apply to use of recycled wastewater furnished by a government agency.

b. At any and all times that a water shortage emergency condition is declared by the Town Council, as Levels 1, 2, 3, 4, 5, or 6 water shortage emergency as set forth in the following table, all customers may be asked to either voluntarily or by mandate reduce consumption of water furnished by the Town, as specified by resolution of the Town Council, and all customers of the Town must adhere to implement actions as specified in the adopted Water Shortage Contingency Plan, as amended.

Water Shortage Level	Percent Shortage Range	Shortage Response Actions
0	0% (normal)	A Level 0 Water Supply Shortage- Conditions exist when the Town notifies its water users that no supply reductions are anticipated in the year. The Town proceeds with planned water efficiency best practices to support customer demand reduction in line with State mandated regulations and local Windsor goals for water supply resiliency. Permanent water waste prohibitions are in place as stipulated in the Town's Code including prohibitions of waste of water per Section 12-3-820
1	Up to 10%	Disruption to the Town's water delivery system or shortages in the amount of water available for delivery by Sonoma County Water Agency and/or Sonoma County Water Agency has declared a Level 1 shortage, or equivalent.
2	Up to 20%	Disruption to the Town's water delivery system or shortages in the amount of water available for delivery by Sonoma County Water Agency and/or Sonoma County Water Agency has declared a Level 2 shortage, or equivalent.
3	Up to 30%	Disruption to the Town's water delivery system or shortages in the amount of water available for delivery by Sonoma County Water Agency and/or Sonoma County Water Agency has declared a Level 3 shortage, or equivalent.
4	Up to 40%	Disruption to the Town's water delivery system or shortages in the amount of water available for delivery by Sonoma County Water Agency and/or Sonoma County Water Agency has declared a Level 4 shortage, or equivalent.
5	Up to 50%	Disruption to the Town's water delivery system or shortages in the amount of water available for delivery by Sonoma County Water Agency and/or Sonoma County Water Agency has declared a Level 5 shortage, or equivalent.

6	> 50%	Disruption to the Town's water delivery system or shortages in the amount of water available for delivery by Sonoma County Water Agency and/or Sonoma County Water Agency has declared a Level 6 shortage, or equivalent.

c. The District reserves the right to require additional mandatory measures beyond those in the Water Shortage Contingency Plan as determined by the District Board of Directors or Town Council.

d. Nothing in this chapter limits, or may be construed as limiting, the availability of water for extinguishing fires, meeting the demands of any other similar emergency, or routine inspection and maintenance of fire hydrants.

e. From and after the date that the Windsor Town Council declares that a Levels 4, 5, or 6 water shortage emergency exists, and required mandatory water use reductions water use in excess of the following allotments established for each meter are in addition declared to be non-essential:

1. Residential meters serving single-family detached homes including mother-in-law or second units that are served by the same meter: the Town shall establish an allocation based on water supply availability that shall not exceed sixty-five (65) gallons per capita per day times the number of permanent occupants. Permanent occupants shall be a whole number. Babies, children, adults and senior citizens whose principal place of residence is in the dwelling in question shall each count as one (1) occupant. In determining the number of permanent occupants, the Town shall rely upon data it has acquired from the customer or other sources. Provided sufficient time is available, the Town will attempt to canvas customers to obtain current data on permanent household occupants. Alternatively, without sufficient data, the Town may assume the most recent published United States Census persons per household for an owner-occupied single-family detached dwelling unit as the basis for the allocation times the Town defined allocation of gallons per day per capita.

2. Residential meters serving multiple units: any use in excess of that resulting from application of the mandatory residential water use reduction established by the Windsor Town Council.

3. Irrigation only meters: any use in excess of that resulting from application of the mandatory irrigation water use reduction or occurring outside of the allowed hours and days of the week as established by resolution of the Windsor Town Council.

4. Meters serving any non-residential use (excluding irrigation only metered use and healthcare and public safety use): any use in excess of that resulting from application of the overall water use reduction established by the Windsor Town Council.

5. Meters serving water used for healthcare and public safety (excluding irrigation only use): any use in excess of the minimum amount required to adequately provide for healthcare and public safety.

6. Meters serving mixed uses: an allotment to be determined by the Town Engineer based upon the criteria contained in subsections e.1 through e.5 immediately above.

f. Any customer exceeding their allotment, based on metered billing records, shall be billed and required to pay a penalty established by the Master Fee Schedule at the time the mandatory Level 4, 5,

or 6 water shortage emergency is declared. This penalty charge shall be waived for the first bill received after mandatory Level 4, 5, or 6 emergency is implemented and shall terminate the day the suspension period ends.

g. If a connection to the Town's system was not in existence or used in the corresponding billing period established for determination of the mandatory water use reduction requirement, the Town will estimate use in such year based on other historic records and/or water use by customers having similar end-uses.

h. In addition to the non-essential uses and restrictions detailed in this article, the Town Council may by resolution specify additional non-essential uses of water, or other mandatory water use restrictions or penalty fees during the shortage period, as may be required from time to time to conform to State and/or Sonoma County Water Agency declarations, regulations, and requirements with respect to water shortage and water conservation matters.

i. During a declared Level Six water shortage emergency the Town Council may adopt, by resolution, additional water supply measures, including but not limited to: (a) restrictions on delivering water to new connections; (b) increased fees related to penalties for wasteful use of water, or other provisions as necessary in accordance with the adopted Water Shortage Contingency Plan or other Sonoma County Water Agency or state mandate. The District or Town Council may also adopt by resolution provisions for customer rationing of existing connections in accordance with California Water Code Sections 350-359 or other local or state mandate

SECTION 5. Title XII, Chapter 3, Article 8, Section 835 of the Windsor Water District Code is amended to delete all text therein in its entirety, and to be read and replaced as follows:

12-3-835 – Use of Sprinklers Conditional.

a. Any customer of the Town may use sprinklers to apply water furnished by the Town to irrigate any existing turfgrass, garden, landscaped area, trees or shrubs provided said application is properly controlled and performed in a non-wasteful and efficient manner confined to the days of the week specified by resolution of the Town Council and to the hours of 7:00 p.m. and 7:00 a.m. of the next day. In the event low-pressure micro-jet sprayers are present in a drip system, irrigation by the valve(s) controlling same shall also be confined to the hours noted above.

b. The amount of water normally required for landscape irrigation shall be reduced by a percent set by resolution of the Town Council and shall hereafter be known as the ETo Adjustment Factor. This condition shall not apply to residential customers if Level 3 water shortage emergency measures are implemented.

c. In determining the amount of water to apply to turfgrass, customers are encouraged to use the following formula:

Applied water for turfgrass (gallons) =	Area of turfgrass (square ft.) x ETo (inches for a given period of time—typically three (3) to seven (7) days) x ETo Adjustment Factor x conversion factor of zero point sixty-two (0.62)

The ETo Adjustment Factor is based on the assumption that overall irrigation efficiency is sixty-five (65%) percent and that the plant factor for turfgrass is one point zero (1.0). Use of this

formula to determine applied water will yield the appropriate amount of water to apply while rationing is in effect.

d. In determining the amount of water to apply to landscaped areas containing a mixture of trees and shrubs, customers are encouraged to use the following formula:

Applied water for mixed trees and shrubs (gallons) =	Area of Landscape (square ft.) x ETo (inches or a given period of time—typically three (3) to seven (7) days) x ETo Adjustment Factor x plant factor of zero point six (0.6) x conversion factor of zero point sixty-two (0.62)

The ETo Adjustment Factor is based on the assumption that overall irrigation efficiency is sixty-five (65%) percent and that the plant factor for mixed trees and shrubs is zero point six (0.6). Use of this formula to determine applied water will yield the appropriate amount of water to apply while mandatory water use restrictions are rationing is in effect.

e. Water applied by sprinklers shall be applied in short enough cycles to avoid run-off to gutters, drains, and other adjacent impervious areas.

f. During the suspension period, use of water by sprinklers is a privilege, and permission to use water in this way may be withdrawn if it comes to the attention of the-District Engineer that such use by a given customer is wasteful or in excess of the amount determined in subsection (b) of this section. A common result of wasteful application of water by sprinklers is evidence of runoff to a gutter or other adjacent impervious area.

g. Use of water pursuant to this section may be curtailed or eliminated during periods of water shortage as set forth in the Water Shortage Contingency Plan currently in effect.

SECTION 6. Title XII, Chapter 3, Article 8, Section 840 of the Windsor Water District Code is amended to delete all text therein in its entirety, and to be read and replaced as follows

12-3-840 – Variances.

In unusual circumstances, application of this chapter may cause unnecessary hardships or results inconsistent with this chapter's purposes and intent. Therefore, variances to some of the requirements of this chapter may be appropriate as described below:

a. The General Manager may grant variances to water use restrictions provisions during a Level 1, 2, or 3 declared Water Shortage Emergency as specified in Water Shortage Contingency Plan. During level 4, 5, or 6 water emergency, as specified in the Water Shortage Contingency Plan, any previously granted variances shall be suspended without notice, unless they are based on a critical health need as determined by a licensed medical professional, with such determination being provided to the General Manager.

b. Customers who seek a variance from this chapter for any reason shall submit to the District a written request for variance, setting forth, in detail, the extraordinary circumstances that support the application. The General Manager may approve the application at their discretion; provided, that the variance allows the applicant to use only the minimum amount of water, in

addition to that allowed by this chapter, that the General Manager reasonably believes is necessary to satisfy the circumstances that support the application. Any such variance shall terminate one year after its issuance, subject to an application for its renewal.

c. Any customer of the Town may make a written application for a variance. Applications shall be addressed to:

Utility Billing
Town of Windsor
9291 Old Redwood Highway
P.O. Box 100
Windsor, CA 95492

SECTION 7. Title XII, Chapter 3, Article 8, Section 845 of the Windsor Water District Code is amended to delete all text therein in its entirety, and to be read and replaced as follows:

12-3-845 – Enforcement and Penalties

The goal of the provisions of this chapter is to achieve voluntary compliance from the customer, and the District will take reasonable measures to assure the customer has information available to promptly and efficiently address water use issues. Where voluntary compliance cannot be achieved through initial contacts and warnings, then appropriate administrative penalties and further action are required. Except as otherwise provided herein, violations of any provision of this chapter shall be addressed as follows:

Violation	Penalty
First	Personal or written notification of the violation
Second	Written notification and issuance of a notice to correct
Third	Issuance of an administrative penalty per the Master Fee Schedule
Fourth	Issuance of an administrative penalty per the Master Fee Schedule
Fifth	Issuance of an administrative penalty per the Master Fee Schedule
Final	Disconnected water service and/or other penalties as provided in the notice of violation and as determined by the General Manager

a. Violations will be based on observation(s) and documentation of waste by District staff, including but not limited to evidence of continually running water by meter readings, physical inspection, and/or visual observation of the occurrence. Violations are subject to the enforcement provisions in Section 12-3-845.

b. It shall be unlawful for any customer to willfully tamper with or in any way modify or attempt to modify a Town meter or anything within the Town's meter box. Violation shall result in the customer being charged a Meter Tampering Fee plus the cost of labor and materials to remedy any damage caused to the Town's equipment as a result of such tampering.

c. Anyone who willfully takes water from the Town water system without the Town's permission or who willfully tampers with or causes damage to any Town meter or water system appurtenance is liable to the Town in the sum of time and materials, plus citation for code violation, as a civil penalty, for each subsequent act during the suspension period. This sum shall be recoverable by a civil suit in a court of competent jurisdiction. This section does not limit the Town's right to recover the cost of any Town water taken without the Town's permission.

d. All customer fees required by this section shall be set by a resolution of the Town.

e. There shall be no appeal of the water use restrictions identified in the Chapter or Water Shortage Contingency Plan. Any appeal of other decisions shall be appealable in writing to the General Manager and if still unresolved a second appeal may be sent in writing to the District Board of Directors.

SECTION 8. California Environmental Quality Act.

The Windsor Water District Board finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15262(v) adoption of urban water management plans and related water shortage contingency plans pursuant to Section 10652 of the California Water Code is statutorily exempt from the California Environmental Quality Act (CEQA) and per CEQA Guidelines Section 15307 (the activity is a regulatory action taken by the District pursuant to its police power for the maintenance and protection of a natural resource) and no environmental review is required.

SECTION 9. Severability.

The provisions of this Ordinance are severable and if any provision, clause, sentence, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of this Ordinance or their applicability to other persons or circumstances.

SECTION 10. Effective Date.

This Ordinance shall take effect and be in force immediately upon adoption.

SECTION 11. Publication or Posting.

This Ordinance shall be published and posted in accordance with the California County Water District Act.

PASSED, APPROVED AND ADOPTED this 20th day of October 2021, by the following vote:

AYES:	**BOARD MEMBERS FUDGE, LEMUS, VICE PRESIDENT REYNOZA AND PRESIDENT SALMON**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

SAM SALMON, PRESIDENT

ATTEST:

IRENE CAMACHO-WERBY, SECRETARY