

**ORDINANCE NO. 15- 01**

**AN ORDINANCE OF THE MOULTON NIGUEL WATER DISTRICT PRESCRIBING  
WATER CONSERVATION RULES AND REGULATIONS**

**WHEREAS**, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that 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**, pursuant to California Water Code section 106, 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**, pursuant to California Water Code section 375, the Moulton Niguel Water District (the "District") is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the District; and

**WHEREAS**, on January 17, 2014, the Governor Brown proclaimed a condition of statewide drought and called upon local agencies to take aggressive, immediate action to reduce water consumption locally and regionally by 20%; and

**WHEREAS**, because of the prevailing conditions in the State, the current statewide drought, and the declared policy of the State, the District hereby finds and determines that it is necessary and appropriate for the District to adopt, implement, and enforce a water conservation program to reduce the quantity of water used by consumers within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection; and

**WHEREAS**, pursuant to California Water Code section 350 the Board of Directors is authorized to declare a water shortage emergency to prevail within its jurisdiction when it finds and determines that the District will not be able to or cannot satisfy the ordinary demands and requirements of water consumers without depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, and fire protection, and as more fully set forth in this chapter; and

**WHEREAS**, in the event the District determines that it is necessary to declare that a water shortage emergency exists, the District will be authorized, pursuant to the Water Shortage Contingency Plan adopted pursuant to this Ordinance, to implement certain shortage response measures and a water conservation and regulatory program to regulate water consumption activities within the District and ensure that the water delivered in the District is put to beneficial use for the greatest public benefit, with particular regard to domestic use, including human consumption, sanitation, and fire protection, and that the waste or unreasonable use of water is prevented; and

**WHEREAS**, the District is authorized to prescribe and define by ordinance restrictions, prohibitions, and exclusions for the use of water during a threatened or existing water shortage and adopt and enforce a water conservation and regulatory program to: (i) prohibit the waste of District water or the use of District water during such period; (ii) prohibit use of water during such periods for specific uses that the District may from time to time find nonessential; and (iii) reduce and restrict the quantity of water used by those persons within the District for the purpose of conserving the water supplies of the District; and

**WHEREAS**, the District hereby finds and determines that as hereby amended, the District shall: (i) implement water conservation and water shortage response measures; (i) regulate the water consumption activities of persons within the District for the purposes of conserving and protecting the District's water supplies, reducing the quantity of water consumed, and deterring and preventing the waste or unreasonable use or unreasonable method of use of valuable water resources; and (ii) establish and collect regulatory fees and impose administrative penalties as set forth herein to accomplish these purposes and/or recover the costs of the District's water conservation and regulatory program; and

**WHEREAS**, the District hereby finds and determines that it is desirable to codify the rules and regulations governing its actions, and the actions of persons using and consuming water within the District, particularly during declared water shortages and water shortage emergencies, to protect the general welfare and the District's water supplies, and to reduce water consumption in accordance with the declared policies and laws of the State.

**NOW THEREFORE BE IT ORDAINED** by the Board of Directors of the Moulton Niguel Water District as follows:

**Section 1. Findings and Determinations**

The District hereby finds and determines that the above recitals are true and correct and incorporated herein.

## **Section 2. Amendments to District Rules and Regulations.**

Moulton Niguel Water District's Article IV Rules and Regulations, Section 5.N., and Exhibit G, amendments to Section 5.N., are hereby amended in their entirety and replaced with the following rules and regulations governing water conservation:

### **N. Water Conservation**

#### **1. Findings and Intent**

(A) **Findings.** The Board of Directors finds and determines that because of the prevailing conditions in the State, and the declared policy of the State, it is necessary and appropriate for the District to adopt, implement, and enforce a water conservation program to reduce the quantity of water used by persons within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection. The District further finds and determines that during periods of drought, water shortages, and water shortage emergencies the general welfare requires that the District maximize the beneficial use of its available water resources to the extent that it is capable, and that the waste or unreasonable use, or unreasonable method of use of water shall be prevented and the conservation of water is to be extended with the view to the reasonable and beneficial use thereof in the interests of the people of the District and for the public health, safety, and welfare.

(B) **Intent.** This Section 5.N. is intended to establish:

- (1) permanent water conservation BMPs and response measures;
- (2) rules, regulations, and restrictions on water use (the "Rules") to be implemented during declared water shortage stages, with increasing restrictions on water use in response to decreasing water supplies and worsening water shortage conditions.

(C) **Demand Management Through Rate Structure Design.** The District's water budget-based rate structure is designed and intended to be a water demand management tool and to proportionately recover the costs of providing water service within the District. The District's efforts in managing its water supply are best achieved through its water budget-based rate structure and the calculated water budgets provided to the District's customers.

(D) **Use of Property.** This Section 5.N. is not intended to repeal, abrogate, annul, impair or in any way interfere with the free use of property by covenant, deed, or other

private agreement or with restrictive covenants running with the land to which the District provides water services.

## 2. **Purposes and Scope**

(A) **Purposes.** The purposes of this Section 5.N. are to:

(1) protect the health, safety and welfare of the citizens and property owners of the District;

(2) assure the maximum beneficial use of available water supplies;

(3) attempt to provide sufficient water supplies to meet, at a minimum, the basic needs of human consumption, sanitation, and fire protection; and

(4) authorize restrictions in water use during declared water shortages to maximize the beneficial use of water, and the imposition of penalties for violations of the Rules.

(B) **Scope.** The provisions of this Section 5.N. shall apply to all persons within the District and all property served by the District wherever situated. Nothing in this Section 5.N. 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.

## 3. **Definitions**

For the purposes of this Section 5.N., the following words, terms, and phrases shall have the following meanings:

(A) "Appellant" means the person appealing the imposition of a penalty imposed by the District for a violation of the Rules pursuant to this Section 5.N.

(B) "BMPs" mean best management practices.

(C) "Calculated water budget" means the water budget calculated by the District for each customer in accordance with the District's water rate structures.

(D) "Calculated recycled water budget" means the recycled water budget calculated by the District for each customer in accordance with the District's recycled water rate structure.

(E) "Ccf" means one hundred cubic feet.

(F) "District" means the Moulton Niguel Water District.

(G) "General Manager" means the General Manager of the District or her or his authorized designee.

(H) "Immediate emergency" shall have the meaning set forth in Section 5.N.6.(D).

(I) "I9 Account customers" shall have the meaning set forth in Section 5.N.9.(A).

(J) "Person" means any natural person, firm, joint venture, joint stock company, partnership, public or private association, club, company, corporation, business trust, organization, public or private agency, government agency or institution, school district, college, university, any other user of water provided by the District, 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.

(K) "Plant factor" means the water needs of specific types of plants as established through guidelines provided by state law and the State Department of Water Resources' Model Water Efficient Landscape Ordinance established under Assembly Bill 1881.

(L) "Potable Water" means that water furnished to the customer which complies with federal and State drinking water regulations and standards, or any other applicable standards, for human consumption.

(M) "Property owner" or "owner" means the record owner of real property as shown on the most recently issued equalized assessment roll.

(N) "Recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

(O) "Rules" shall have the meaning set forth in in Section 5.N.1.(B)(2).



(P) "RC9 Account customers" shall have the meaning set forth in Section 5.N.14(A)(1).

(Q) "State" means the state of California, including any department or regulatory agency thereof.

(R) "Water customer" or "customer" means a person who, according to the District's records, has an account with the District and receives water service or recycled water service to a parcel of property.

(S) "Water shortage emergency" means a condition existing within the District in which the ordinary water demands and requirements of 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 both an immediate emergency, in which the District is unable to meet current water needs of persons within the District, as well as a threatened water shortage, in which the District determines that its future supply of water may not meet an anticipated future demand.

(T) "WUCOLS" shall have the meaning set forth in Section 5.N.8.(D).

#### **4. Water Conservation Best Management Practices**

(A) **Conservation through BMP's.** Recognizing that water is our most vital resource, the following water conservation BMPs have been established to conserve water, prevent the waste or unreasonable use or unreasonable method of use of water, and preserve the District's water supplies. The BMPs shall be in effect at all times. Except as otherwise provided in this Section 5.N.4., the BMPs shall not apply to the use of recycled water.

(B) **Installation of Water Conservation Devices.** No water shall be provided by the District for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental, or public building or structure of any kind which is constructed or altered and in which either internal or external irrigation or domestic water piping or water fixtures are to be installed, extended, or altered in any way, including, but not limited to, any plumbing, water piping, or water fixtures for which a construction permit is required to be obtained from the County of Orange or its successor, or for which District approval of plans and service applications are required, unless the new, extended, or altered plumbing, water piping, or other water using facilities conform to the requirements and standards of this Section 5.N.4.(C) of the Rules and Regulations.

(C) **Standards for Water Conservation Devices.** The required water conservation devices and standards of the District are those set forth on Exhibit "F" to these Rules and Regulations. Nothing herein provided shall be deemed to relieve any person from compliance with the plumbing code of the County of Orange or any other state or local plumbing or building requirements.

(D) **Limits on Watering Hours.** Watering or irrigating any lawn, landscape or other vegetated area with potable water should be avoided between the hours of 9:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with an automatic shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

(E) **Limits on Water Duration.** Watering or irrigating any lawn, landscape or other vegetated area with potable water using a landscape irrigation system or watering device that is not continuously attended should be limited to no more than eight minutes of watering per station every other day during the summer and less than six minutes during the spring, fall and winter. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow irrigation systems where no emitter produces more than two gallons of water per hour.

(F) **No Watering During Rain.** Watering or irrigating any lawn, landscape or other vegetated area with potable water should be avoided when it is raining.

(G) **Plant Low-Water Demand Plants and Trees.** When installing new landscaping, plant only low-water demand trees and plants. New turf should only be installed for functional purposes. Functional turf is defined as turf used for athletic or high traffic areas.

(H) **No Excessive Water Flow or Runoff.** Watering or irrigating any lawn, landscape or other vegetated area in a manner that causes or allows excessive flow or runoff of potable or recycled water onto an adjoining sidewalk, driveway, street, alley, gutter or ditch should be avoided.

(I) **No Washing Down Hard or Paved Surfaces.** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, should be avoided except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with an automatic shut-off device or a low-volume, high-pressure cleaning machine equipped to recycle any water used.

(J) **Obligation to Fix Leaks, Breaks or Malfunctions.** Excessive use, loss or escape of potable or recycled water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system should be avoided for any period of time after such escape of water should have reasonably been discovered and corrected. It is unlawful for any person to permit for the forgoing for more than five days after receiving notice from the District of any such break, leak, or other malfunction.

(K) **Re-circulating Water Required for Water Fountains and Decorative Water Features.** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

(L) **Limits on Washing Vehicles.** Using potable water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, should be avoided, except by use of a hand-held bucket or similar container, a hand-held hose equipped with an automatic water shut-off nozzle or a low volume power washer with an automatic water shut-off nozzle. This paragraph does not apply to commercial car washes or the washing of vehicles regulations where the health, safety, and welfare of the public is contingent upon frequent vehicle cleaning, such as garbage trucks and vehicles used to transport food and perishables.

(M) **Drinking Water Served Upon Request Only.** Eating or drinking establishments, including but not limited to a restaurant, hotel, café, cafeteria, bar, club or other public place where food or drinks are sold, served, or offered for sale, should only provide drinking water to persons when expressly requested.

(N) **Commercial Lodging Establishments Must Provide Option to Not Launder Linens Daily.** Hotels, motels and other commercial lodging establishments should provide customers the option of not having towels and linens laundered daily. Commercial lodging establishments should prominently display notice of this option in each bathroom using clear and easily understood language.

(O) **Installation of Single Pass Cooling Systems.** Single pass cooling systems shall not be installed in buildings requesting new potable water service.

(P) **Installation of Non-re-circulating Water Systems in Commercial Car Washes and Laundry Systems.** Non-recirculating water systems in commercial car washes and laundry systems shall not be installed.



(Q) **Restaurants Required to Use Water Conserving Dish Wash Spray Valves.** Food preparation establishments, such as restaurants or cafés, shall not use non-water conserving dish wash spray valves.

(R) **Swimming Pools and Spa Covers.** Property owners who have a swimming pool or a spa are encouraged to cover the facilities to minimize water loss due to evaporation.

(S) **Water Waste and Unreasonable Water Use Prohibited.** The waste or unreasonable use or unreasonable method of use of water by any person shall be prohibited at all times.

## 5. Water Shortages

(A) **Reductions in Water Supply.** Should the BMPs be inadequate to protect the District's potable water supply, the District Board of Directors reserves the right to implement further mandatory Rules to reduce the amount of water used within the District. The Rules are necessary to respond to any significant reductions to the District's water supply as a result of drought, natural disasters, regulatory action, and planned or unplanned potable water shortages, including but not limited to, shortages arising from the following circumstances or events that are or may impact the District's water supply:

(1) the District's wholesale water supplier has determined that a drought, water shortage, or water shortage emergency exists or has implemented or taken other actions requiring a reduction in water demand;

(2) Metropolitan Water District of Southern California ("MWD") Water Supply Allocation Plan implementation or other actions requiring a reduction in water demand;

(3) regional or statewide importation or local distribution systems or facility(ies) have failed or have been shut down (e.g., a main break, reservoir, pipeline, canal, or other distribution or conveyance system failure);

(4) alternative water supplies are limited or unavailable;

(5) the State has determined that a drought, water shortage or water shortage emergency exists;

(6) the State has implemented restrictions on the use of water or reduced or restricted the delivery of wholesale water to the District; and

(7) any other natural disaster that impacts the availability of water to the District.

(B) **Application.** The provisions of this Section 5.N. shall apply to all persons using potable water within the District, regardless of whether any person using potable water or recycled water has a contract or account for water service.

## 6. Declaration of Water Shortages

(A) **District Water Supply.** The General Manager shall monitor the projected supply and demand for water by the District's customers on a frequent basis during periods of a water shortage or drought and shall recommend to the Board of Directors the extent of the conservation measures required through the implementation and/or termination of particular water shortage stages to prudently plan and supply water to its customers. The General Manager will recommend the appropriate stage of response to a water shortage based on the best information available at the time. In addition to the circumstance and events set forth in Section 5.N.5(A), conditions that may be considered include, but are not limited to:

(1) District water supply conditions and storage levels;

(2) statewide water supply conditions;

(3) local water supply and demand conditions; and

(4) actions by surrounding wholesale and retail water agencies; and

(5) any other conditions the General Manager believes will adversely affect the District's available water supply.

(B) **Declaration of Water Shortage Stages.** The declaration of any water shortage stage declared pursuant to Section 5.N.7 shall be made by the recommendation of the General Manager and the adoption of a resolution of the Board of Directors. The water shortage stage designated shall become effective immediately upon adoption of the resolution by the Board of Directors.

(C) **Notice and Publication.** Within ten (10) days of the adoption of the resolution declaring the applicable water shortage stage, the District shall make a public announcement of the applicable water shortage stage, which shall be published a minimum of three (3) times in a daily newspaper of general circulation and posted on the District's website.

(1) Such declaration and notice shall provide the extent, terms, and conditions respecting the use and consumption of water in accordance with the applicable water shortage stage as provided in this Section 5.N.

(2) The District will periodically provide the public with information about the Rules, including conditions under which each water shortage stage is to be initiated or terminated and the conservation response measures to be implemented in each stage.

(3) Upon such declaration and publication of the notice required herein, due and proper notice shall be deemed to have been given each and every person supplied water within the District of the Rules governing the applicable water shortage stage.

(D) **Declaration of Water Shortage Emergency.** Excepting in event of a breakage or failure of a dam, pump, pipe line or conduit causing an immediate emergency (an "immediate emergency"), the declaration of a water shortage emergency during any water shortage stage shall be made in accordance with California Water Code sections 350 *et seq.*

(1) The declaration of a water shortage emergency other than an immediate emergency shall be made only after a public hearing at which consumers have an opportunity to be heard to protest the declaration and to present their respective needs to the Board of Directors.

(2) Notice of the time and place of the public hearing shall be published pursuant to Section 6061 of the Government Code at least seven days prior to the date of the public hearing in a newspaper printed, published, and circulated within the area in which the water supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the Orange County.

(3) After the close of the public hearing, the Board of Directors shall be authorized to adopt a resolution declaring a water shortage emergency. The resolution shall take effect immediately upon adoption.

(4) After adopting the resolution, the declaration of the Board of Directors of the water shortage emergency shall be made by public announcement on the

District's website and shall be published a minimum of one time in a newspaper of general circulation.

(5) The Rules on water use during the water shortage emergency shall remain in full force and effect during the period of the emergency and until the supply of water available for distribution within the District's service area has been replenished or augmented. After adopting the resolution, the declaration of the Board of Directors of the appropriate water shortage stage shall be made by public announcement on the District's website and shall be published a minimum of one time in a newspaper of general circulation.

(E) **Determination of Immediate Emergency.** Notwithstanding the forgoing, if an immediate emergency occurs and the Board of Directors cannot meet in time to act to protect the public interest pursuant to this Section 5.N., the General Manager is hereby authorized and directed to implement such provisions of this Section 5.N. upon his or her written determination that the District cannot supply adequate water to meet the ordinary demands of water consumers, and that such implementation is necessary to protect the public health and safety.

(1) The implementation of any such provisions shall take effect immediately upon making a public announcement of the immediate emergency and publication of such immediate emergency on the District's website.

(2) Such written determination shall be delivered to the Board of Directors and considered at a general or special meeting for review, revocation, or ratification. Such meeting shall be held upon the earliest date that a quorum of the Board of Directors is available.

(3) At the Board of Directors meeting, the General Manager shall update the Board of Directors on the severity and length of the immediate emergency.

(4) During an immediate emergency, the District may specify temporary restrictions on the use of potable and recycled water. Any person who willfully fails to comply with those temporary restrictions may be subject to an administrative penalty of \$500 per offense and have his or her water meter locked by the District.

(F) **Implementation of Water Shortage Stages.** As water supply conditions either deteriorate or improve, the General Manager will return to the Board of Directors to recommend, as appropriate, revising the appropriate water shortage stage of response.

(1) It shall not be necessary to implement any water shortage stage prior to another; the water shortage stages may be implemented in any reasonable order. Except for a water shortage emergency or immediate emergency, any stage implemented shall be in effect for up to 120 days, at which point the Board shall determine whether to continue a water shortage stage.

(2) The District will implement an appropriate stage based on current water conditions. Higher stages will be implemented as shortages continue and/or if customers' responses to the water shortage measures in effect do not bring about desired water savings.

(3) Restrictions, penalties and enforcement will build on each other as higher stages are implemented. All prior tier reductions and variance procedure modifications in lower stages are cumulative into the higher stages.

(G) **Actions or Restrictions by the State or Other Agencies.** In the event the State or other agencies, through executive action, emergency legislation or other actions, impose conditions, requirements, or procedures that are not included in this Section 5.N., the General Manager is authorized to implement such measures as are reasonably required to bring the District's actions in each stage into functional conformity with such conditions, requirements, or procedures.

(H) **Public Outreach.** When the Board of Directors determines that a water shortage condition exists, any or all of the following notification procedures may be implemented:

(1) Notify the general public stakeholders, elected officials and other key decision-makers regarding the water shortage condition, actions to be taken, goals customers are intended to achieve, and how these actions and goals will be implemented.

(2) The public at large will be informed of the situation and actions the District will be taking. Communications may occur through any of the following: billing inserts, special mailings, telephone contact, e-mail, social media, roadway signage, water conservation booths, and other booths in the community, community association meetings, newsletters, and education programs, etc. Literature appropriate to the drought circumstance will be provided regarding the water shortage condition, conservation methods, and water-savings devices.



(3) Use of all forms of media may be employed. This would include public service announcements on radio and cable television, social media as well as earned media, and advertisements in local newspapers.

(4) The District's web site, [www.MNWD.com](http://www.MNWD.com), will be the central location for messaging and customer communications

**7. Water Shortage Stage 1 – Potable Water Reductions**

(A) **Voluntary Reductions.** During a Water Shortage Stage 1 ("Stage 1"), the District's conservation efforts will be focused on voluntary reductions in potable water use. Potable water customers may reduce demand by following the District's BMPs.

(B) **Refills of Swimming Pools.** Any customer who refills a swimming pool shall not receive a variance to his or her calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

**8. Water Shortage Stage 2 – Mandatory Potable Water Use Rules**

(A) **Mandatory Rules Governing Potable Water Budgets.** During a Water Shortage Stage 2 ("Stage 2"), all potable water customers shall be prohibited from using potable water in excess of their calculated water budget.

(B) **Penalties.** During a Stage 2, any potable water customer who willfully uses water in excess of his or her calculated potable water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.43 for each ccf, or portion thereof, of potable water used in excess of his or her calculated potable water budget.

(1) Such penalty shall be in addition to the water service fees the District imposes for the potable water delivered to the customer.

(C) **Refills of Swimming Pools.** During a Stage 2, any customer who refills a swimming pool shall not receive a variance to their calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

(D) **Plant Variances.** During a Stage 2, any person installing new landscaping, a new plant variance will only be granted for California friendly vegetation as

defined by the Water Use Classifications of Landscape Species (“WUCOLS”) to have low or very low watering needs for the South Coastal Region. The classifications can be found at [http://ucanr.edu/sites/WUCOLS/Plant\\_Search/](http://ucanr.edu/sites/WUCOLS/Plant_Search/).

**9. Water Shortage Stage 3 – Mandatory Potable Water Use Rules**

(A) **Recalculation of Potable Water Budgets.** During a Water Shortage Stage 3 (“Stage 3”), potable water customers’ water budgets shall be recalculated as follows:

(1) all single-family residential, multi-family residential, and potable irrigation customers, except for irrigation customers in high traffic areas (“I9 Account customers”), shall have their outdoor water budgets reduced by 40%, resulting in outdoor water budgets being recalculated using a plant factor of 0.42.

(2) I9 Account customers shall have their outdoor water budgets reduced by 40%, resulting in outdoor water budgets recalculated using a plant factor of 0.6.

(B) **Mandatory Rules Governing Potable Water Budgets.** During a Stage 3, all potable water customers shall be prohibited from using water in excess of their recalculated water budgets.

(C) **Penalties.** During a Stage 3, any potable water customer who willfully uses water in excess of his or her recalculated water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.43 for each ccf, or portion thereof, of water used in excess of his or her recalculated water budget.

(1) The penalty shall be in addition to the water service fees the District imposes for the water delivered to the customer.

(2) The penalty corresponds to water usage above the modifications to tier widths.

(D) **Refills of Swimming Pools.** During a Stage 3, any customer who refills a swimming pool shall not receive a variance to their calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

(E) **Plant Variances.** During a Stage 3, any person installing new landscaping, a new plant variance will only be granted for California friendly vegetation as

defined by the WUCOLS to have low or very low watering needs for the South Coastal Region. The classifications can be found at [http://ucanr.edu/sites/WUCOLS/Plant\\_Search/](http://ucanr.edu/sites/WUCOLS/Plant_Search/).

**10. Water Shortage Stage 4 – Mandatory Potable Water Use Rules**

(A) **Recalculation of Potable Water Budgets.** During a Water Shortage Stage 4 ("Stage 4"), potable water customers' water budgets shall be recalculated as follows:

(1) single-family residential, multi-family residential, and potable irrigation customers, except for I9 Account customers, shall have their outdoor water budgets reduced by 70%, resulting in outdoor water budgets being recalculated using a plant factor of 0.21; and

(2) I9 Account customers shall have their outdoor water budgets recalculated using a plant factor of 0.30.

(B) **Mandatory Rules Governing Potable Water Budgets.** During a Stage 4, all potable water customers shall be prohibited from using water in excess of their recalculated water budgets.

(C) **Penalties.** During a Stage 4, any potable water customer who willfully uses water in excess of his or her recalculated water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.43 for each ccf, or portion thereof, of water used in excess of his or her recalculated or assigned water budget.

(1) Such penalty shall be in addition to the water service fees the District imposes for the water delivered.

(2) The penalty corresponds to water usage above the modifications to tier widths.

(D) **Refills of Swimming Pools.** During a Stage 4, any customer who refills a swimming pool shall not receive a variance to their calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

(E) **Plant Variances.** During a Stage 4, any person installing new landscaping, a new plant variance will only be granted for California friendly vegetation as

defined by the WUCOLS to have low or very low watering needs for the South Coastal Region. The classifications can be found at [http://ucanr.edu/sites/WUCOLS/Plant\\_Search/](http://ucanr.edu/sites/WUCOLS/Plant_Search/).

**11. Water Shortage Stage 5 – Mandatory Potable Water Use Rules**

(A) **Recalculation of Potable Water Budgets.** During a Water Shortage Stage 5 (“Stage 5”), potable customers’ water budgets shall be recalculated as follows:

(1) all single-family residential and multi-family residential customers shall have their indoor water budgets reduced from 60 gallons per capita per day to 40 gallons per capita per day;

(2) all Commercial potable water customers shall be prohibited from using potable water in excess of their calculated water budgets;

(B) **Mandatory Rules Governing Potable Water Budgets.** During a Stage 5, all single-family residential and multi-family residential customers shall be prohibited from using water in excess of their recalculated indoor water budgets. Outdoor budgets will be reduced to zero.

(C) **Mandatory Rules Governing Potable Water Use.** During a Stage 5, all potable water irrigation customers shall be prohibited from using potable water. All outdoor irrigation with potable water shall be prohibited within the District’s service area.

(D) **Penalties.** The following penalties shall be imposed for any violation of the Rules set forth in this Section 5.N.11:

(1) Any single-family residential and multi-family residential customer who willfully uses potable water in excess of his or her recalculated indoor water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.63 for each ccf, or portion thereof, of water used in excess of his or her recalculated indoor water budget.

(2) Any commercial customer who uses potable water in excess of his or her calculated water budget shall be subject to an administrative penalty of \$7.43 for each ccf, or portion thereof, of water used in excess of his or her calculated water budget.

(3) Any potable irrigation customer who uses potable water shall be subject to an administrative penalty of \$9.04 for each ccf, or portion thereof of potable water used and shall have its water meter locked off.

(4) All penalties imposed pursuant to this Section 5.N.11. shall be in addition to the water service fees the District imposes for the water delivered to the forgoing customers.

(5) The penalties correspond to water usage above the modifications to tier widths.

(D) **Refills of Swimming Pools.** No customer shall refill a swimming pool during a Stage 5.

(E) **Plant Variances.** During a Stage 5, no customer shall install new landscaping.

**12. Water Shortage Stage 1 – Voluntary and Mandatory Recycled Water Use Rules**

(A) **Voluntary Reductions.** During a Stage 1, the District's conservation efforts will be focused on voluntary reductions in recycled water use. Recycled water customers may reduce demand by following the District's BMPs.

(B) **Mandatory Rules Governing Potable Water Use.** During a Stage 1, recycled water customers shall be prohibited from using potable water for outdoor irrigation.

**13. Water Shortage Stage 2 – Mandatory Recycled Water Use Rules**

(A) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 2, all recycled water customers shall be prohibited from using recycled water in excess of their calculated recycled water budget.

(B) **Penalties.** During a Stage 2, any recycled water customer who willfully uses recycled water in excess of his or her calculated recycled water budget shall be subject to an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her assigned recycled water budget. Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered to the customer.

**14. Water Shortage Stage 3 – Mandatory Recycled Water Use Rules**



(A) **Recalculation of Recycled Water Budgets.** During a Stage 3, all recycled water customers' recycled water budgets shall be recalculated as follows:

(1) All recycled water customers, except recycled water customers in high traffic areas ("RC9 Account customers"), shall have their outdoor recycled water budget reduced by 10%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.72.

(2) All RC9 Account customers shall have their outdoor recycled water budget reduced by 10%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.90.

(B) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 3, all Recycled Water customers shall be prohibited from using recycled water in excess of their recalculated recycled water budget.

(C) **Penalties.** During a Stage 3, any recycled water customer who uses recycled water in excess of his or her recalculated recycled water budget shall be subject to an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her recalculated recycled water budget.

(1) Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered to the customer.

(2) The penalty corresponds to recycled water used above the modifications to tier widths. By way of example, recycled water used in excess 90% of Tier 1 for recycled water customers (except RC9 Account customers) shall be charged an additional penalty of \$7.04 for each ccf or portion thereof.

#### 15. Water Shortage Stage 4 – Mandatory Recycled Water Use Rules

(A) **Recalculation of Recycled Water Budgets.** During a Stage 4, all recycled water customers' recycled water budgets shall be recalculated as follows:

(1) All Recycled Water customers, except for RC9 Account customers, shall have their recycled water budgets reduced by 20%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.64.

(2) RC9 Account customers shall have their outdoor recycled water budgets reduced by 20%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.80.

(B) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 4, all recycled water customers shall be prohibited from using recycled water in excess of their recalculated recycled water budget.

(C) **Penalties.** During a Stage 4, any recycled water customer who uses recycled water in excess of his or her recalculated recycled water budget shall be subject to an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her recalculated recycled water budget.

(1) Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered.

(2) The penalty corresponds to recycled water use above the modifications to tier widths. By way of example, recycled water use above 80% of Tier 1 for recycled water customers (except for RC9 Account customers) is charged a penalty of \$7.04.

#### **16. Water Shortage Stage 5 – Mandatory Recycled Water Use Rules**

(A) **Recalculation of Recycled Water Budgets.** During a Stage 5, all recycled water customers' recycled water budgets shall be recalculated as follows:

(1) All recycled water customers, except for RC9 Account customers, shall have their outdoor recycled water budget reduced by 30%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.56.

(2) All RC9 Account customers shall have their outdoor recycled water budget reduced by 30%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.70.

(B) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 5, all recycled water customers shall be prohibited from using recycled water in excess of their recalculated recycled water budget.

(C) **Penalties.** During a Stage 5, any recycled water customer who uses recycled water in excess of his or her recalculated recycled water budget shall be subject to

an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her recalculated recycled water budget.

(1) Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered.

(2) The penalty corresponds to recycled water use above the modifications to tier widths. By way of example, recycled water use above 70% of Tier 1 for recycled water customers (except for RC9 Account customers) shall be charged a penalty of \$7.04.

**17. Violations and Remedies**

(A) **Misdemeanor Violations.** It shall be unlawful for any person to willfully violate the provisions of this Section 5.N.. A violation of any of these provisions is a misdemeanor in accordance with California Water Code section 377.

(B) **Other Remedies.** In addition to any other remedies provided in this Section 5.N or available under applicable law, the District may alternatively seek injunctive relief in the Superior Court or take enforcement action, including discontinuing or appropriately limiting water service to any customer, for violations of this Section 5.N. All remedies provided herein shall be cumulative and not exclusive.

**18. Notice and Collection of Penalties**

(A) **Notice and Due Process.** As set forth in Section 5.N.6(C), upon the declaration of a water shortage stage and publication of the notice required herein, due and proper notice shall be deemed to have been given each and every person supplied water within the District of the Rules governing the applicable water shortage stage.

(B) **Collection of Penalties.** Any penalty imposed pursuant to the Rules of any applicable water shortage stage set forth in this Section 5.N. may be collected on a customer's water bill. Any penalty shall be applicable to water used in violation of the Rules during the first complete billing cycle after the declaration of the applicable water shortage stage.

(C) **Notice of Violation.** The receipt of a water bill with any applicable penalties shall serve as notice of violation of the District's Rules.

**19. Appeal Procedures**

Any person (an "Appellant") who wishes to appeal the imposition of an administrative penalty imposed by the District pursuant to this Section 5.N. shall comply with the following procedures:

(A) **Appeal Request Form.** An Appeal Request form shall be submitted to the Conservation Department.

(1) Appeal Request forms may be obtained at the District's Main Office or downloaded from the District's website at [www.MNWD.com](http://www.MNWD.com).

(2) An Appeal Request form shall be received by the District no later than thirty calendar days from the date that the Appellant's water bill for the four-week period in which the penalty or penalties were imposed is due.

(B) **Additional Documentation.** Additional documentation may be requested at the discretion of the District. Such documentation may include, but is not limited to, school records, driver's licenses, business licenses, lease agreements.

(C) **Site Survey.** After an Appeal Request form has been received, a site survey may be required by District staff to verify the irrigated square footage of the property where the water was delivered. The site survey will be at no charge to the person and will require the person who submitted the Appeal Request form to be present.

(D) **District Response.** A response to an Appeal Request shall be provided by the District within thirty calendar days from receipt of the Appeal Request form.

(E) **Review of Denial of Appeal Request.** If an Appeal Request is denied, the Appeal Request form may be resubmitted by the Appellant for review by the District's Assistant General Manager. The Decision by the District's Assistant General Manager shall be final.

### **Section 3. Conflicting Provisions**

If provisions of Section 5.N. are in conflict with each other, other provisions of the Article IV, any other resolution or ordinance of the District, or any State law or regulation, the more restrictive provisions shall apply.

### **Section 4. Severability**

If any provision, section, subsection, sentence, clause or phrase or sections of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Ordinance shall not be affected, it being the intent of the Board of Directors in adopting this Ordinance that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

### **Section 5. Effective**

This Ordinance shall be effective immediately upon adoption.



**APPROVED, ADOPTED and SIGNED** this 19<sup>th</sup> day of February, 2015.



Donald Froelich, President  
MOULTON NIGUEL WATER DISTRICT  
and the Board of Directors thereof



Paige Gulck, Secretary  
MOULTON NIGUEL WATER DISTRICT  
and the Board of Directors thereof

