

Article 7: Water System

Division 38: Emergency Water Regulations

(“Emergency Water Regulations” added 10-19-1998 by O-18596 N.S.)

§67.3801 Declaration of Necessity and Intent

- (a) This Division establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the City of San Diego Water Department service area in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.
- (b) In addition to the general provisions of Section 67.3803, this Division establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of drought response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available water supplies.
- (c) Drought Response Level 1 measures are voluntary and will be reinforced through local and regional public education and awareness measures. Drought Response condition Levels 2 or higher become increasingly restrictive in order to attain escalating conservation goals.
- (d) During a Drought Response Level 2 condition or higher, the water conservation measures and water use restrictions established by this Division are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as provided in Chapter 1 of this Code.

(Renumbered from Sec. 67.38 and retitled to “Declaration of Emergency” on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3801 repealed and added “Declaration of Necessity and Intent” 12-15-08 by O-19812 N.S; effective 1-14-2009.)

§67.3802 Definitions

The following words and phrases whenever used in this Division will have the meaning defined in this section:

Cascading Fountain means a water feature with a flow which does not eject water up into the air.

Customer means any person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the City of San Diego.

Days are defined as calendar days, unless otherwise indicated.

Disaster means a catastrophic, naturally occurring or man-made event, including earthquake, flood, fire, riot, or storm, for which a state of emergency has been declared by the President of the United States, the Governor of California, or the executive officer or legislative body of the City or County of San Diego.

Drought means any shortage in water supply based upon expected demands that are caused by hydrological, environmental, legislative, judicial actions, or by infrastructure failure.

Grower means a *customer* engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. Grower does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the San Diego County Water Authority Special Agricultural Rate Programs.

Industrial Use means any of the following Subcategories of the Industrial Use Category in San Diego Municipal Code section 131.0112(a)(10): (A) Heavy Manufacturing; (B) Light Manufacturing; or (D) Research and Development.

Measurable Rainfall means a period during and within 48 hours after rainfall of 1/8 of an inch or more recorded at the nearest reporting weather station for the *customer*.

Metropolitan means the Metropolitan Water District of Southern California.

Ornamental Fountain means a water feature with an external forced flow or stream of water against gravity that is not used for recreational purposes or to support aquatic life.

Potted Plant means any plant or group of plants contained in a pot or other receptacle that can be moved, including plants on boards, bark, driftwood or airplants (epiphytes).

Recreational Fountain means any recreational structure, other than swimming pools or spa pools, which is open to the general public or which may be open to the general public, and uses re-circulated water in which people come into contact. This includes, but is not limited to, zero depth water features, interactive fountains, water slides, waterfalls, or combinations of such water features. Water features not intended for human contact, such as *ornamental fountains*, are not included.

Water Authority means the San Diego County Water Authority.

Water Conservation means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

(Renumbered from Sec. 67.38.1 and retitled to "Comprehensive Water Conservation Plan" on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3802 repealed and added "Definitions" 12-15-08 by O-19812 N.S; effective 1-14-2009.)

(Amended 10-28-2009 by O-19904 N.S.; effective 11-27-2009.)

(Amended 6-29-2015 by O-20517 N.S.; effective 6-29-2015.)

(Amended 8-4-2016 by O-20699 N.S.; effective 9-3-2016.)

(Amended 11-20-2019 by O-21156 N.S.; effective 12-20-2019.)

§67.3803

Water Waste Prohibitions

To prevent the waste and unreasonable use of water and to promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

- (a) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.

- (b) *Customers* shall repair or stop all water leaks upon discovery or within seventy-two hours of notification by the City of San Diego.
- (c) A *customer* shall not wash down sidewalks, driveways, parking areas, tennis courts or other paved areas without using a power washer or a hose with a shutoff nozzle. Washing any paved areas is only allowed to alleviate immediate safety or sanitation hazards. Wash water shall be collected and prevented from leaving the property and entering the municipal separate storm sewer system pursuant to Chapter 4, Article 3, Division 3 of this Code.
- (d) A *customer* shall not overfill swimming pools and spas.
- (e) A *customer* shall not use non-recirculating *ornamental fountains* or *cascading fountains*.
- (f) Using a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
- (g) Single pass-through cooling systems as part of water service connections shall be prohibited after the effective date of this section. Non-recirculating systems in all conveyer car wash and commercial laundry systems shall be prohibited after the effective date of this section.
- (h) Serving drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served or purchased.
- (i) Operating a hotel or motel without providing guests the option of choosing not to have towels and linens laundered daily, or operating a hotel or motel without prominently displaying notice of this option in each guestroom using clear and easily understood language.
- (j) A *customer* may only irrigate *potted plants*, non-commercial vegetable gardens and fruit trees, residential and commercial landscapes, including golf courses, parks, school grounds and recreation fields, before 10:00 a.m. and after 6:00 p.m. A *customer* may irrigate at any time the following:
 - (1) as required by a landscape permit;
 - (2) for erosion control;
 - (3) for establishment, repair, or renovation of public use fields for schools and parks;

- (4) for landscape establishment following a *disaster*. Such irrigation is permitted for a period of up to two months, after which a hardship variance is required in accordance with Section 67.3810;
 - (5) for renovation or repair of an irrigation system with an operator present; or
 - (6) for nursery and commercial *growers* using a hand-held hose equipped with a positive shut-off nozzle, a hand held container, or when a drip or micro-irrigation system or equipment is used. Irrigation of nursery propagation beds is permitted at any time.
- (k) The irrigation with potable water of ornamental turf on public street medians.
 - (l) The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
 - (m) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall.

(Renumbered from Sec. 67.38.2 and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3803 repealed and added "Water Waste Prohibitions" 12-15-08 by O-19812 N.S; effective 1-14-2009.)

(Amended 12-7-2010 by O-20008 N.S.; effective 1-6-2011.)

(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)

(Amended 6-29-2015 by O-20517 N.S.; effective 6-29-2015.)

(Amended 8-4-2016 by O-20699 N.S.; effective 9-3-2016.)

§67.3804

Application

- (a) This Division applies to any *customer* in the use of any water provided by the City of San Diego.
- (b) This Division is intended solely to further the conservation of water. It is not intended to implement or replace any provision of federal, state, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff.

- (b) Nothing in this Division is intended to affect or limit the ability of the City Manager to declare and respond to an unforeseeable *disaster* or water emergency such as an earthquake, *drought*, aqueduct break, or other major disruption in the water supply, pursuant to the City Charter or other provisions of this Code.
- (d) This Division does not apply to use of water from private wells or to reclaimed water, or the use of grey water systems.
- (e) This Division does not apply to use of water that is subject to a special supply program, such as the *Metropolitan* Interim Agricultural Water Program or the *Water Authority* Special Agricultural Rate Programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A *customer* using both water subject to a special supply program and other water provided by the City of San Diego is subject to this Division in the use of water provided by the City of San Diego.
- (f) The use of potable water by any *customer* for *industrial use*, including the evaporative cooling of *industrial use* facilities, is exempt from the provisions of Municipal Code section 67.3806(c) if all of the following conditions are met to the satisfaction of the City Manager:
- (1) The *customer* has satisfactorily implemented the Best Management Practices identified by the City Manager; and
 - (2) The *customer* is in compliance with the California Plumbing Code, title 24, part 5 of the California Code of Regulations, including using all applicable water-conserving fixtures and fittings on the premises to the fullest extent possible.
- (g) If a *customer's* premises is located in an area where City reclaimed water is available for *customer* use by direct connection to the City's reclaimed water infrastructure, the use of potable water by that *customer* for *industrial use*, including the evaporative cooling of *industrial use* facilities, is exempt from the provisions of Municipal Code section 67.3806(c), if all of the following conditions are met to the satisfaction of the City Manager:
- (1) the *customer* uses reclaimed water on its premises to the fullest extent possible, including in landscape irrigation and evaporative cooling, if applicable; and
 - (2) The *customer* is in compliance with the California Plumbing Code, title 24, part 5 of the California Code of Regulations, including using all applicable water-conserving fixtures and fittings on the premises to the fullest extent possible.

- (h) This Division does not apply to areas serviced by the Park and Recreation Department, including public rights-of-way, and street trees, or areas with significant public benefit requiring enhanced irrigation schedules, such as public parks. Irrigation of the areas serviced by the Park and Recreation Department shall be operated and maintained according to a schedule determined by the City Manager, consistent with section 67.3801.

(Renumbered from Sec. 67.38.3, retitled to “Authority to Implement Water Conservation Stages” and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3804 repealed and added “Application” 12-15-08 by O-19812 N.S; effective 1-14-2009.)

(Amended 6-29-2015 by O-20517 N.S.; effective 6-29-2015.)

(Amended 11-20-2019 by O-21156 N.S.; effective 12-20-2019.)

§67.3805 Drought Response Level 1 – Drought Watch Condition

- (a) A Drought Response Level 1 condition is also referred to as a “Drought Watch” condition. The City Manager may recommend, and upon resolution of the City Council, declare a Drought Response Level 1 when there is a reasonable probability, due to *drought*, that there will be a supply shortage and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon such declaration, the City Manager shall take action to implement the voluntary Level 1 conservation practices identified in this Division.
- (b) During a Level 1 Drought Watch condition, City of San Diego will increase its public education and outreach efforts to increase public awareness of the need to implement the following *water conservation* practices.
- (1) Limit all landscape irrigation to no more than three assigned *days* per week on a schedule established and posted by the City Manager. This provision does not apply to commercial *growers* or nurseries, nor to the irrigation of golf course greens and tees.
- (2) Use a hand-held hose equipped with a positive shut-off nozzle or hand held container or a garden hose sprinkler system on a timer to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

- (3) The washing of automobiles, trucks, trailers, airplanes and other types of mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Boats and boat engines are permitted to be washed down after use. Washing is permitted at any time on the immediate premises of a commercial car wash. The use of water by all types of commercial car washes which do not use partially recirculated water will be reduced in volume by an amount determined by resolution of the City Council. Mobile equipment washings are exempt from these regulations where the health, safety and welfare of the public are contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food products, livestock and perishables.
- (4) Use recycled or non-potable water for construction purposes when available.
- (5) Use of water from fire hydrants will be limited to fire fighting, meter installation by the Water Department as part of its Fire Hydrant Meter Program, and related activities or other activities necessary to maintain the health, safety and welfare of the citizens of San Diego.
- (6) Construction operations receiving water from a fire hydrant meter or water truck will not use water beyond normal construction activities, consistent with Section 67.3803 and that required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation hours of only before 10:00 a.m. and after 6:00 p.m.

*(Renumbered from Sec. 67.38.4 and amended 10-19-1998 by O-18596 N.S.)
(Former Section 67.3805 repealed and added "Drought Response Level I – Drought Watch Condition" 12-15-08 by O-19812 N.S; effective 1-14-2009.)
(Amended 10-28-2009 by O-19904 N.S; effective 11-27-2009.)
(Amended 12-7-2010 by O-20008 N.S.; effective 1-6-2011.)
(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)
(Amended 6-29-2015 by O-20517 N.S.; effective 6-29-2015.)
(Amended 8-4-2016 by O-20699 N.S.; effective 9-3-2016.)*

§67.3806 Drought Response Level 2 – Drought Alert Condition

- (a) A Drought Response Level 2 condition is also referred to as a “Drought Alert” condition. The City Manager may recommend and, upon resolution of the City Council, declare a Drought Response Level 2 when, due to *drought*, a consumer demand reduction of up to 20 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 2, the City Manager shall take action to implement the mandatory Level 2 conservation practices identified in this Division.
- (b) All City of San Diego water *customers* shall comply with all Level 1 Drought Watch *water conservation* practices during a Level 2 Drought Alert, and shall also comply with the following conservation measures:
- (1) Limit all landscape irrigation using sprinklers to no more than five minutes per watering station during the two assigned *days* per week on a schedule established and posted by the City Manager. This provision does not apply to landscape irrigation systems using water efficient devices, including drip/micro-irrigation systems and stream rotor sprinklers.
 - (2) Landscaped areas, including trees and shrubs not irrigated by a landscape irrigation system governed by Section 67.3806(b)(1) shall be watered no more than two assigned *days* per week by using a hand held container, hand-held hose with positive shut-off nozzle, or low volume non-spray irrigation (soaker hose.)
 - (3) Stop operating *ornamental fountains* except to the extent needed for maintenance.
 - (4) *Potted plants*, non-commercial vegetable gardens and fruit trees may be irrigated on any *day*, but must be irrigated only before 10:00 a.m. or after 6:00 p.m.
 - (5) Irrigation is permitted any *day* at any time, as follows:
 - (A) as required by a landscape permit;
 - (B) for erosion control;
 - (C) for establishment, repair or renovation of public use fields for schools and parks; or

- (D) for landscape establishment following a *disaster*. Such irrigation is permitted for a period of up to two months, which a hardship variance is required in accordance with Section 67.3810.
- (c) The City Manager may recommend and, upon resolution of the City Council, implement a water allocation per *customer* account served by the City of San Diego, and a schedule of surcharges or penalties for exceeding the water allocation. If the City Council adopts or modifies water allocations, the City Manager will post notice of the water allocation prior to the effective date(s). Following the effective date(s) of the water allocation as established by the City Council, any *customer* that uses water in excess of the allocation will be subject to a surcharge or penalty for each billing unit of water in excess of the allocation. The surcharge or penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this Division. The *water conservation* measures required under Level 1 Drought Watch and Level 2 Drought Alert conditions, may be suspended by resolution of the City Council during the period a water allocation is in effect.

(Renumbered from Sec. 67.38.5 and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3806 repealed and added “Drought Response Level 2 – Drought Alert Condition” 12-15-08 by O-19812 N.S; effective 1-14-2009.)

(Amended 10-28-2009 by O-19904 N.S; effective 11-27-2009.)

(Amended 12-7-2010 by O-20008 N.S.; effective 1-6-2011.)

(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)

(Amended 6-29-2015 by O-20517 N.S.; effective 6-29-2015.)

§67.3807

Drought Response Level 3 – Drought Critical Condition

- (a) A Drought Response Level 3 condition is also referred to as a “Drought Critical” condition. The City Manager may recommend and, upon resolution of the City Council, declare a Drought Response Level 3 when, due to *drought*, there will be a supply shortage and that a consumer demand reduction of up to 40 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of Drought Response Level 3, the City Manager shall take action to implement the mandatory Level 3 conservation practices identified in this Division.
- (b) All City of San Diego water *customers* shall comply with all Level 1 Drought Watch and Level 2 Drought Alert *water conservation* practices during a Level 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:

- (1) Limit all landscape irrigation to no more than five minutes per watering station during the two assigned *days* per week on a schedule established and posted by the City Manager. This provision will not apply to commercial *growers* or nurseries, nor to the irrigation of golf course greens. *Customers* with irrigation systems that use non-standard spray heads, such as impact rotors, rotating nozzles or micro-spray heads shall limit irrigation to no more than 18 minutes per *day* total on assigned watering *days*.
 - (2) Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain plants or animals that have been actively managed within the water feature prior to declaration of a *drought* response level under this Division.
 - (3) Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems.
 - (4) Stop operating *cascading fountains* and *recreational fountains* except to the extent needed for maintenance.
- (c) Upon the declaration of a Drought Response Level 3 condition requiring a 30 percent or greater demand reduction, new potable water services, temporary or permanent water meters, and statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) will be allowed only under the circumstances listed below. This provision does not preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.
- (1) A valid building permit has been issued for the project; or
 - (2) The project is necessary to protect the public's health, safety, and welfare; or
 - (3) The number of new fire hydrant meters will not exceed the existing number of currently authorized fire hydrant meters. A new fire hydrant meter will be issued only when an old meter is returned; or

- (4) The applicant provides substantial evidence satisfactory to the City Manager of an enforceable commitment that the new water demands for the project will be offset prior to the provision of new water meter(s). Such offset shall be in the form of additional *water conservation* measures, the provision of recycled water use in place of existing potable water demands, or other such offsets developed and approved by the City Manager. These offsets shall be reflected in a reduced capacity fee from the project's initially calculated demand (for example, an offset of 75 equivalent dwelling units ("edu") is provided so that the project's 200 edu demand is reduced to 125 edus and fees are paid on 125 edus but the service and meter will be sized at 200 edus).

Development projects with approved tentative maps and related entitlements shall have their maps and related entitlement's expiration dates tolled for the period of time that the Drought Response Level 3 condition is in place but not to exceed 5 years, unless the development project applicant chooses to proceed with development under subsections (c)(1) through (c)(4) above.

- (d) Upon the declaration of a Drought Response Level 3 condition, the City Manager will suspend consideration of annexations to its service area.
- (e) The City Manager may recommend and, upon resolution of the City Council, implement a water allocation per *customer* served by the City of San Diego, and a schedule of surcharges or penalties for exceeding the water allocation. If the City Council adopts or modifies a water allocation, the City Manager will post notice of the allocation prior to the effective date(s). Following the effective date(s) of the water allocation as established by the City Council, any *customer* that uses water in excess of the allocation will be subject to a surcharge or penalty for each billing unit of water in excess of the allocation. The surcharge or penalty for excess water usage will be in addition to any other remedy or penalty that may be imposed for violation of this Division. The *water conservation* measures required under Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions may be suspended by resolution of the City Council during the period a water allocation is in effect.

(Renumbered from Sec. 67.38.6 and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3807 repealed and added "Drought Response Level 3 – Drought Critical Condition" 12-15-08 by O-19812 N.S; effective 1-14-2009.)

(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)

(Amended 6-29-2015 by O-20517 N.S.; effective 6-29-2015.)

§67.3808 Drought Response Level 4 – Drought Emergency

- (a) A Drought Response Level 4 condition is also referred to as a “Drought Emergency” condition. The City Manager may recommend and, upon resolution of the City Council, declare a water shortage emergency pursuant to California Water Code section 350 and declare a Drought Response Level 4 when there is a reasonable probability that there will be a supply shortage and that a consumer demand reduction of more than 40 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon declaration of a Drought Response Level 4, the City Manager shall take action to implement the mandatory Level 4 conservation practices identified in this Division and on the grounds provided in California Water Code section 350.
- (b) All City of San Diego water *customers* shall comply with all *water conservation* measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:
- (1) Stop all landscape irrigation, except crops and landscape products of commercial *growers* and nurseries. This restriction does not apply to:
- (A) Maintenance of trees and shrubs that are watered no more than two assigned days per week on a schedule established and posted by the City Manager, and by using a hand held container, hand-held hose with an automatic shut-off nozzle, or low-volume non-spray irrigation;
- (B) Maintenance of existing landscaping necessary for fire protection;
- (C) Maintenance of existing landscaping for erosion control;
- (D) Maintenance of plant materials identified to be rare, protected by City Council Policy or essential to the well being of rare animals;
- (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 days per week according to the schedule established under Section 67.3807(b)(1);

- (F) Watering of livestock; and
 - (G) Public works projects and actively irrigated environmental mitigation projects.
- (2) Stop filling or refilling residential pools and spas.
 - (3) No new commitments or agreements will be entered into to provide water to *customers* or agencies located outside of the City of San Diego.

*(Renumbered from Sec. 67.38.7 and amended 10-19-1998 by O-18596 N.S.)
(Former Section 67.3808 repealed and added “Drought Response Level 4 – Drought Emergency” 12-15-08 by O-19812 N.S; effective 1-14-2009.)
(Amended 10-3-2011 by O-20093 N.S.; effective 11-2-2011.)*

§67.3809 Procedures for Determination and Notification of Drought Response Level

- (a) The existence of a Drought Response Level 1 condition may be declared upon recommendation by the City Manager and resolution of the City Council, upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination will be filed with the City Clerk. The City Manager will publish a notice of the determination of existence of Drought Response Level 1 condition in the City's official newspaper. The City of San Diego may also post notice of the condition on its website.

The Water Department will monitor the projected supply and demand for water during periods of emergency or *drought* and will recommend to the City Manager the extent of the conservation required. The City Manager will recommend to the City Council the implementation or termination of the appropriate level of *water conservation* in accordance with this Division.

- (b) The existence of Drought Response Level 2 or Level 3 conditions may be declared upon recommendation by the City Manager and resolution of the City Council. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions will take effect on the tenth day after the date the response level is declared. Within five days following the declaration of the response level, the City Manager will publish a notice giving the extent, terms and conditions respecting the use and consumption of water a minimum of one time for three consecutive days in the City's official newspaper. If the City Council adopts a water allocation, the City Manager will publish notice of this adoption in the City's official newspaper. Water allocation will be effective on the fifth day following the date of publication or at such later date as specified in the notice.

- (c) The existence of a Drought Response Level 4 condition may be declared upon recommendation by the City Manager and resolution of the City Council and in accordance with the procedures specified in California Water Code Sections 351 and 352. The mandatory conservation measures applicable to Drought Response Level 4 conditions will take effect on the tenth day after the date the response level is declared. Within five days following the declaration of the response level, the City Manager will publish a notice giving the extent, terms and conditions respecting the use and consumption of water in the City's official newspaper. If the City Council adopts a water allocation, the City Manager will publish notice of the allocation in the City's official newspaper. Water allocation will be effective on the fifth day following the date of publication or at such later date as specified in the notice.
- (d) The City of San Diego may declare an end to Drought Response Levels 1, 2, 3 and 4 upon recommendation of the City Manager and resolution by the City Council at any regular or special meeting of the City Council.

(Renumbered from Sec. 67.38.8 and amended 10-19-1998 by O-18596 N.S.)

(Former Section 67.3809 repealed and added "Procedures for Determination and Notification of Drought Response Level" 12-15-08 by O-19812 N.S; effective 1-14-2009.)

§67.3810 Hardship Variance

- (a) If, due to unique circumstances, a specific requirement of this Division would result in undue hardship to a *customer* using City of San Diego water or to property upon which City of San Diego water is used, that is disproportionate to the impacts to City of San Diego water users generally or to similar property or classes of water uses, then the *customer* 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 *customer* using City of San Diego water or to property upon which City of San Diego water is used, that is disproportionate to the impacts to City of San Diego water users generally or to similar property or classes of water user due to specific and unique circumstances of the user or the user's property.

(1) Application.

Application for a variance will be in written form prescribed by the City Manager and will be accompanied by a non-refundable processing fee in an amount set by resolution of the City Council.

(2) Supporting Documentation.

The written application will be accompanied by photographs, maps, drawings, or other pertinent information as applicable, including a written statement of the applicant.

(3) Approval Authority.

The City Manager will exercise approval authority and act upon any completed application after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance will be promptly notified in writing of any action taken. The decision of the City Manager is final. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory *drought* response.

(4) Required Findings for Variance.

(A) Except as set forth in Section 67.3810(B), an application for a variance will 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 City of San Diego, all of the following:

- (i) that the variance does not constitute a grant of special privilege inconsistent with the limitations upon other City of San Diego *customers*; and
- (ii) that because of special circumstances applicable to the property or its use, the strict application of this Division would have a disproportionate impact on the property or use that exceeds the impacts to *customers* generally; and

- (iii) that the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City of San Diego to effectuate the purpose of this Division and will not be detrimental to the public interest; and
 - (iv) 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.
- (B) An application for a variance will 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 City of San Diego, either of the following:
- (i) that the property has been adversely impacted by a *disaster*; or
 - (ii) that proposed alternative water use restrictions for the property would result in greater water savings than the existing water use restrictions.
- (5) No relief will be granted to any *customer* for any reason in the absence of a showing by the *customer* that the *customer* has achieved the maximum practical reduction in water consumption in the *customer's* residential, commercial, industrial, institutional, agricultural or governmental water consumption.

(Renumbered from Sec. 67.38.9 on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3810 repealed and added "Hardship Variance" 12-15-08 by O-19812 N.S; effective 1-14-2009.)

(Amended 10-28-2009 by O-19904 N.S; effective 11-27-2009.)

§67.3811 Violations and Penalties

It is unlawful for any *customer* to violate the mandatory provisions of this Division. Violations are subject to criminal, civil, and administrative penalties and remedies as provided in Chapter 1 of this Code. In addition, service of water may be discontinued or appropriately limited through the installation of flow-restricting devices to any *customer* who willfully uses water in violation of this Division.

(Renumbered from Sec. 67.39 and retitled to “Publication of Terms of Water Use” on 10-19-1998 by O-18596 N.S.)

(Former Section 67.3811 repealed and added “Violations and Penalties” 12-15-08 by O-19812 N.S; effective 1-14-2009.)