

ORDINANCE NO. 2009-1

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE ROSAMOND COMMUNITY SERVICES DISTRICT,
COUNTY OF KERN, STATE OF CALIFORNIA,
AMENDING ORDINANCE NO. 2001-01 TO UPDATE THE
WATER CONSERVATION (NO WASTE) PROGRAM**

WHEREAS, the Board of Directors of the Rosamond Community Services District (the "District") in accordance with the Community Services District Law, Sections 61000 and following the Government Code of California, has duly adopted its Ordinance No. 2001-01 "An Ordinance Amending Ordinance No. 92-6 to establish a Water Conservation (No Waste) Program;" and

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 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 September 28, 2006, the Governor of the State announced measure AB 1881, to significantly increase water conservation in California through new landscape irrigation requirements, which would require a local agency to adopt an ordinance that is at least as effective in conserving water as the updated model ordinance created by the Department of Water Resources; and

WHEREAS, on June 4, 2008, the Governor of the State proclaimed a condition of statewide drought and strongly encouraged local agencies to take aggressive, immediate action to reduce water consumption locally and regionally for the remainder of 2008 and prepare for potentially worsening conditions in 2009; and

WHEREAS, because of the prevailing conditions in the State, the current statewide drought, and the declared policy of the State the District that the District manage its water resources for the general welfare to ensure their beneficial use to the fullest extent of which they are capable, 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 of the District (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 ordinance; and

WHEREAS, the District hereby finds and determines that 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 this ordinance to implement drought 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 and hereby finds and determines that it is necessary 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 wastage of District water or the use of District water during such period; (ii) prohibit use of water during such periods for specific uses which 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 the District shall: (i) implement water conservation and drought response measures; (ii) 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 (iii) establish and collect regulatory fees and impose fines and penalties as set forth herein to accomplish these purposes and recover the costs of the District’s water conservation and regulatory program; and

WHEREAS, the Board of Directors 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 all in accordance with the declared policies and laws of the State; and

WHEREAS, the Board of Directors hereby further finds and determines that this ordinance and the Rules and Regulations set forth in **Exhibit A**, attached hereto and by this reference incorporated herein, are in the public interest, serve a public purpose, and will promote the health, welfare, and safety of the people of the District.

BE IT ORDAINED by the Board of Directors of the Rosamond Community Services District as follows:

Section 1. Recitals.

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

Section 2. Findings and intent.

(A) 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) This ordinance establishes water conservation and drought response measures and Rules and Regulations to be implemented during declared water conservation stages.

(C) This ordinance establishes five stages of water conservation and drought response measures to be implemented by the District, with increasing restrictions on water use in response to decreasing water supplies and worsening drought conditions.

Section 3. Purpose and scope.

(A) The purpose of the water conservation provisions of this ordinance 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 District water supplies;

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

(B) This ordinance 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.

(C) The provisions of this ordinance shall apply to all persons within the District and all property served by the District wherever situated.

(D) Nothing in this ordinance is intended to affect or limit the ability of the District to respond to an emergency, including an emergency that affects the ability of the District to supply water.

Section 4. Definitions.

For the purposes of this ordinance, the following words, terms, and phrases shall have the following meanings:

(A) “Board of Directors” means the Board of Directors of the District.

(B) “District” means the Rosamond Community Services District, a community services district organized and existing pursuant to the Community Services District Law (California Government Code sections 61000 and following).

(C) “Enforcement Officer” means any individual employed or otherwise charged by the District to inspect or enforce codes, ordinances, mandates, regulations, resolutions, rules or other laws adopted by the Board of Directors or other regulatory bodies.

(D) “Graywater” means household wastewater other than toilet waste. Graywater includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs but does not include wastewater from kitchen sinks or dishwashers.

(E) “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.

(F) “Property owner” means the record owner of real property based on the Kern County Assessor’s records.

(G) “Rules and Regulations” mean the rules and regulations more fully set forth in Exhibit A hereto established pursuant to this ordinance for the regulation and enforcement of the District’s Water Conservation (No Waste) Program.

(H) “Summer months” mean the months of April through October.

(I) “Water customer” or “customer” means a person who, according to the District’s records, receives water service to a parcel of property.

(J) “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 supply cannot meet an increased future demand.

(K) “Winter months” means the months of October through March.

Section 5. Water Conservation and unreasonable uses of water.

(A) It is unlawful at any time for any person to make, cause, or use or permit the use of water from the District for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this ordinance, or in an amount in excess of that use permitted by the water conservation stages which are in effect pursuant to this ordinance or by action taken by the Board of Directors in accordance with this ordinance. The water conservation and drought response measures set forth in this Section 5 shall be in effect at all times.

(B) It is unlawful at any time for any person to waste water or to use it unreasonably. Unreasonable uses of water shall include, but are not limited to, the following practices:

(1) use of potable water to irrigate in such a manner as to result in runoff for more than 5 minutes;

(2) allowing potable water to escape from breaks within the customer's plumbing system for more than twenty-four (24) hours after the customer is notified or discovers the break;

(3) use of potable water to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate safety or sanitation hazards;

(4) washing automobiles, trucks, boats, trailers, airplanes or other types of mobile equipment by hose without a shutoff nozzle and bucket except to wash such vehicles at commercial or fleet vehicle washing facilities using water recycling equipment. Further, such washings are exempted from these regulations where the health, safety, and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles used to transport food and perishables;

(5) use of potable water to clean, fill or maintain decorative fountains, lakes or ponds unless such item is re-circulating;

(6) except when specifically requested by a customer, serving water to a customer in a restaurant;

(C) Construction operations receiving water from a construction meter or water truck shall not use water unnecessarily for any purpose other than those required by regulatory agencies.

(D) The number of new construction meters shall not exceed the existing number of currently authorized meters. A new meter shall be issued only when an old meter is returned. Construction projects requiring water from a construction meter or a water truck shall not use water unnecessarily for any purposes other than those required by regulatory agencies.

(E) A water conservation stage shall be determined by the Board of Directors in accordance with the provisions of this ordinance. A water conservation stage shall remain in full force and effect until otherwise determined or discontinued by resolution of the Board of Directors declaring that existing water supply conditions and the supply of water available for distribution within the District's service area has been replenished or augmented.

(F) The Board of Directors may declare a water shortage emergency during any water conservation stage.

(G) For new construction, recycled water, or untreated surface water shall be used for construction dust control or exterior non-potable water application purposes.

(H) Rosamond Community Services (RCSD) will read meters once a month for monitoring and billing purposes.

(I) During Water Conservation Stage 1, the water conservation and drought response measures are voluntary and will be enforced through local and regional public education and awareness measures by the District.

(J) During Water Conservation Stages 2 through 5, the water conservation and drought response measures are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as specified in this ordinance and by State law.

Section 6. Landscape Restrictions.

(A) Residential Landscape Restrictions:

(1) Single-family and multifamily residential developments are prohibited from installing new turf in common areas of residential neighborhoods. This restriction shall not apply to public parks or privately owned and maintained parks, including required usable open space in multifamily developments.

(2) The installation of new turf is prohibited in residential front yards; provided, however, a residential property owner may apply to the District for an exemption from the prohibition of this Section 6. Upon the approval of such application, the property owner may be permitted to install new turf in the residential front yard (in the quantity allowed for the side and rear yards), and shall not install turf in the side and rear yards. The approval of any application hereto shall be conditioned upon the property owner to give permission for District staff to gain access to the back and side yards for compliance inspection purposes.

(3) For single-family residential lots, the installation of new turf in yard shall not exceed 20% percent of total yard.

(B) Non-Residential Landscape Restrictions:

(1) The installation of new turf in non-residential developments is prohibited, unless specifically permitted by a land use application approved by the District. Under no circumstances shall a land use application be approved to allow more than 50 percent of the turf permitted under Water Conservation Stage 2. Notwithstanding the forgoing, these provisions shall not apply to public or private schools or parks.

(C) Any person or association shall be prohibited from imposing private covenants, conditions, restrictions, deed clauses or other agreements between the respective parties, which prevent a person from utilizing water efficient landscaping, including, but not limited to, xeriscape, provided such landscaping receives appropriate review approval.

(D) The District will not grant any waiver or variance with respect to the standards listed in this Section 6. Such a request shall be considered a request to amend the requirements of this Section 6.

Section 7. Water Conservation Stage 1. – Normal Water Supply.

(A) Water Conservation Stage 1 is also referred to as a “Normal Water Supply” and applies during periods when the District is able to meet all of the water demands of its customers. Water Conservation Stage 1 is in effect at all times unless the Board of Directors otherwise declares that another water conservation stage is in effect pursuant to this ordinance. Water is a limited natural resource and must be used efficiently and economically to meet the health and safety needs of the community. All normal water efficiency programs and water conservation regulations of the District will be in full force and effect during Water Conservation Stage 1.

Section 8. Water Conservation Stage 2. – Minimum Water Shortage.

(A) Water Conservation Stage 2 is also referred to as a “Minimum Water Shortage” and applies during periods when a reasonable probability exists that the District will not be able to meet all of the water demands of its customers. Water Conservation Stage 2 may be caused by, but not limited to, any or all of the following circumstances or events:

- (1) a regional water supply shortage exists and a regional public outreach campaign is being implemented asking or requiring all persons to reduce water use;
- (2) groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- (3) alternative water supplies are limited or unavailable;
- (4) groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, Kern County, or some other regulatory body.

(B) The objective of the measures undertaken in Water Conservation Stage 1 is to reduce water system consumption within the District by ten to fifteen percent.

(C) Upon declaration of a Water Conservation Stage 2 by the Board of Directors, implementation by the District and publication of notice, the following water conservation and drought response measures shall apply:

(1) The District shall determine the total amount of water delivered to the property of each customer in the prior fiscal year (the "Base Year Consumption Amount"). Water customers shall reduce their water consumption by ten to fifteen percent from the Base Year Consumption Amount for the duration of Water Conservation Stage 2. Provided, however, the Base Year Consumption Amount for any subsequent fiscal year shall be determined by the District as appropriate in the event that the District is required to continue Water Conservation Stage 2 for more than twelve months.

(2) Lawns and/or ground covers may be watered and landscaping may be irrigated, including construction meter irrigation, for a maximum of 25 minutes per day only during the following designated hours and designated days:

(a) lawns and/or ground cover may be watered and landscaping may be irrigated for properties with odd number street addresses, parks, and the public right of ways, only on Saturdays, Mondays, and Wednesdays between the hours of 6:00 p.m. to 6:00 a.m. during the winter months and 8:00 a.m. to 8 p.m. during the summer months;

(b) lawns and/or ground cover may be watered and landscaping may be irrigated for properties with even number street addresses only on Sundays, Tuesdays, and Thursdays between the hours of 6:00 p.m. to 6:00 a.m. during the winter months and 8:00 a.m. to 8 p.m. during the summer months;

(c) watering lawns and/or ground cover and irrigating landscaping is prohibited on Fridays and on any day of the week from 6:00 a.m. to 6:00 p.m. during the winter months and 8:00 a.m. to 8 p.m. during the summer months;

(3) All irrigation timers shall be adjusted to comply with the provisions of Section 8(C)(2) hereof.

(4) Notwithstanding the provisions of Section 8(C)(2) hereof, the use of graywater to irrigate fruit trees, lawns and ground covers, and ornamental trees and shrubs is permitted on any day and at any time. Provided, however, graywater may only be used in accordance with Kern County Health Department regulations.

(5) All swimming pools, spas, ponds, and fountains shall be equipped with recirculating pumps.

(6) All plumbing leaks, improperly adjusted sprinklers, or other water conduits/fixtures that require repair or adjustment shall be corrected to the satisfaction of the District.

(7) Water customers shall read their water meters at least once each month to monitor their water consumption.

(8) Use of water from fire hydrants shall be limited to fire fighting, related activities or other activities necessary to maintain the health, safety, and welfare of the public.

(9) All new Single Family Residence and Duplex homes shall be equipped with dual water meters and shall initially reduce water through landscape meters.

Section 9. Water Conservation Stage 3. – Moderate Water Shortage.

(A) Water Conservation Stage 3 is also referred to as a “Moderate Water Shortage” and applies during periods when the District will not be able to meet all of the water demands of its customers. Water Conservation Stage 3 may be caused by, but is not limited to, any or all of the following circumstances or events:

(1) a regional or statewide water supply shortage exists and a regional public outreach campaign is being implemented asking or requiring all persons to reduce water use;

(2) groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);

(3) alternative water supplies are limited or unavailable;

(4) groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, Kern County, or some other regulatory body.

(B) The objective of the measures undertaken in Water Conservation Stage 3 is to reduce water system consumption within the District by fifteen to twenty percent.

(C) Except as otherwise provided in this Section 9, all water conservation and drought response measures of Water Conservation Stages 1 and 2 shall be in full force and effect during Water Conservation Stage 3. Upon declaration of a Water Conservation Stage 3 by the Board of Directors, implementation by the District

and publication of notice, the following water conservation and drought response measures shall apply:

- (1) Water customers shall reduce their water consumption by fifteen to twenty percent from the Base Year Consumption Amount for the duration of Water Conservation Stage 3. Provided, however, the Base Year Consumption Amount for any subsequent fiscal year shall be determined by the District as appropriate in the event that the District is required to continue Water Conservation Stage 3 for more than twelve months.
- (2) Lawns and/or ground cover may be watered and landscaping may be irrigated, including construction meter irrigation, for a maximum of twenty-five minutes per day, only during the following designated hours and designated days:
 - (a) lawns and/or ground cover may be watered and landscaping may be irrigated for properties with odd number street addresses, parks, and public right of ways, only on Saturdays and Wednesdays between the hours of 6:00 p.m. and 6:00 a.m.;
 - (b) lawns and/or ground cover may be watered and landscaping may be irrigated for properties with even number street addresses only on Sundays and Thursdays between the hours of 6:00 p.m. and 6:00 a.m.;
 - (c) watering lawns and/or ground cover and irrigating landscaping is prohibited on Mondays and Fridays and on any day of the week from 6:00 a.m. to 6:00 p.m.
- (3) Notwithstanding the provisions of Section 9(C)(2) hereof, the use of graywater to irrigate fruit trees, lawns and ground covers, and ornamental trees and shrubs is permitted on any day and at any time. Provided, however, graywater may only be used in accordance with Kern County Health Department regulations.
- (4) Irrigation timers shall be adjusted to comply with the provisions of Section 9(C)(2) hereof.
- (5) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is permitted only during the hours of 5:00 p.m. to 7 p.m. or to coincide with daylight savings PST, on Saturdays, Sundays, and Mondays with a hand-held bucket or a hand-held hose equipped with an automatic, positive shut-off nozzle for quick rinses. 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 not using partially reclaimed or recycled water shall be reduced in volume by an amount determined by the Board of Directors. Further, such washings are exempt from these regulations where the health, safety, and welfare of the public is

contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles used to transport food and perishables.

- (6) The overfilling of swimming pools and spas is prohibited. The filling or refilling of ponds, streams, and artificial lakes is prohibited.
- (7) The operation of any ornamental fountain or similar structure is prohibited except for short periods of time to prevent damage.

Section 10. Water Conservation Stage 4. – Severe Water Shortage.

(A) Water Conservation Stage 4 is also referred to as a “Severe Water Shortage” and applies during periods when the District will not be able to meet all of the water demands of its customers. Water Conservation Stage 4 may be caused by, but is not limited to, any or all of the following circumstances or events:

- (1) a regional or statewide water supply shortage exists and a regional public outreach campaign is being implemented asking or requiring persons to reduce water use;
- (2) groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- (3) alternative water supplies are limited or unavailable;
- (4) groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, Kern County, or some other regulatory body; and
- (5) a major failure of any supply or distribution facility, whether temporary or permanent, occurs in the water distribution system of the State, the Antelope Valley East Kern Water Agency, or District water facilities.

(B) The objective of the measures undertaken in Water Conservation Stage 4 is to reduce water consumption within the District by twenty to forty percent.

(C) Except as otherwise provided in this Section 10, all water conservation and drought response measures of Water Conservation Stages 1, 2 and 3 shall be in full force and effect during Water Conservation Stage 4. Upon declaration of a Water Conservation Stage 4 by the Board of Directors, implementation by the District and publication of notice, the following water conservation and drought response measures shall apply:

(1) Water customers shall reduce their water consumption by twenty to forty percent from the Base Year Consumption Amount for the duration of Water Conservation Stage 4. Provided, however, the Base Year Consumption Amount for subsequent fiscal years shall be determined by the District as appropriate in the event that the District is required to continue Water Conservation Stage 4 for more than twelve months.

(2) Irrigation of landscaping shall be limited to supporting minimal survival of trees and shrubs. Landscaping may be irrigated, including construction meter irrigation, for a maximum of twenty-five minutes per day only during the following designated hours and designated days:

(a) properties with odd number street addresses, parks, and public right of ways may irrigate landscaping only on Saturdays between the hours of 6:00 p.m. and 6:00 a.m.;

(b) properties with even number street addresses may irrigate landscaping and pastures only on Sundays between the hours of 6:00 p.m. and 6:00 a.m.;

(c) irrigating landscaping is prohibited on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays and on any day of the week from 6:00 a.m. to 6:00 p.m.

(3) Notwithstanding the provisions of Section 10(C)(2) hereof, the use of graywater to irrigate fruit trees, lawns and ground covers, and ornamental trees and shrubs is permitted on any day and at any time. Provided, however, graywater may only be used in accordance with Kern County Health Department regulations.

(4) All outdoor watering and irrigation of lawns and ground covers is prohibited with the exception of plant materials classified and determined by the District General Manager to be rare, exceptionally valuable, or essential to the well being of the public at large or rare animals.

(5) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment is prohibited. Washing is permitted at any time on the immediate premises of a commercial car wash. Commercial car washes shall only use partially reclaimed or recycled water for washing automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment. Further, such washings are exempt from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles used to transport food and perishables.

(6) The filling, refilling, or adding of water to swimming pools, spas, ponds, streams, and artificial lakes is prohibited.

(7) The operation of any ornamental fountain, pond, or similar structure is prohibited except for short periods of time to prevent damage.

(8) The use of water for cooling mists is prohibited.

(9) The use of water for commercial, manufacturing, or processing purposes shall be reduced in volume by an amount determined by the Board of Directors.

(10) Provided the Board of Directors has declared a water shortage emergency pursuant to California Government code section 350 *et seq.*, no new construction meters will be issued. Construction water shall not be used for earth work, road construction purposes, dust control, compaction, or trenching jetting. Construction projects necessary to maintaining the health, safety, and welfare of the public are exempt from these regulations.

(11) Provided the Board of Directors has declared a water shortage emergency pursuant to California Water Code sections 350 *et seq.*, except as to property for which a building permit has been heretofore issued, no new meter(s) will be installed, except in the following circumstances:

(a) for projects necessary to protect the public's health, safety, and welfare;

(b) when using reclaimed water;

(c) when the recipient of the building permit can demonstrate that no net increase in water use will occur; or

(d) where the recipient of the building permit provides a conservation offset. For purposes of this Section 10(C)(11)(d), "conservation offset" shall mean the implementation of proven conservation techniques which, when installed, will result in a reduction equal to demand of the proposed use. A conservation offset may be effected by paying a fee established by the District in an amount necessary to cover the cost of implementing such conservation techniques or acquiring alternative water sources. The fee will be based on the conservation offset required for an equivalent dwelling unit. Such fee shall apply to residential as well as commercial and industrial buildings, and may be adjusted from time to time as determined by the District.

Section 10. Water Conservation Stage 5. – Critical Water Shortage.

(A) Water Conservation Stage 5 is also referred to as a "Critical Water Shortage" and applies during periods when the District will not be able to meet all of the water demands of its customers. Water Conservation Stage 5 may be caused by, but is not limited to, any or all of the following circumstances or events:

- (1) a regional or statewide water supply shortage exists and a regional public outreach campaign is being implemented asking or requiring all persons to reduce water use;
- (2) groundwater wells are inoperable or unusable (such as by power outages, mechanical failure, or contamination);
- (3) alternative water supplies are limited or unavailable;
- (4) groundwater levels or groundwater quality is approaching levels which may require augmentation of the groundwater basin or other actions necessary to protect the groundwater basin as prescribed by the California Department of Water Resources, the Regional Water Quality Control Board, Kern County, or some other regulatory body;
- (5) a major failure of any supply or distribution facility, whether temporary or permanent, occurs in the water distribution system of the State, the Antelope Valley East Kern Water Agency, or District water facilities and the District cannot meet all of the water demands of its customers.

(B) The objective of the measures undertaken in Water Conservation Stage 5 is to reduce water consumption by forty percent or more.

(C) Except as otherwise provided in this Section 11, all water conservation and drought response measures of Water Conservation Stages 1, 2, 3, and 4 shall be in full force and effect during Water Conservation Stage 5. Upon declaration of a Water Conservation Stage 5 by the Board of Directors, implementation by the District and publication of notice, the following water conservation and drought response measures shall apply:

- (1) Water customers shall reduce their water consumption by forty percent or more from the Base Year Consumption Amount for the duration of Water Conservation Stage 5. Provided, however, the Base Year Consumption Amount for subsequent fiscal years shall be determined by the District as appropriate in the event that the District is required to continue Water Conservation Stage 5 for more than twelve months.
- (2) All outdoor watering and irrigation of lawns and ground cover, and landscaping shall be prohibited, with the exception of the use of graywater to irrigate fruit trees, lawns and ground covers, and ornamental trees and shrubs, which is permitted on any day and at any time. Provided, however, graywater may only be used in accordance with Kern County Health Department regulations.

(3) Provided the Board of Directors has declared a water shortage emergency pursuant to California Water Code sections 350 *et seq.*, the District shall not allow any new connections to the water system during Water Conservation Stage 5.

Section 11. Conflicting Provisions.

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

Section 12. Severability.

If any provision, section, subsection, sentence, clause or phrase or sections of this ordinance, including Exhibit A hereto, 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 sections 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 1. Effective Date.

This ordinance shall be effective upon adoption. Before the expiration of 15 days after its passage, the Secretary shall cause this ordinance to be published once, with the names of the members voting for and against it, in a newspaper published in the County pursuant to the provisions of California Government Code Section 25124. Within ten (10) days after its adoption, the District Secretary shall cause this ordinance to be published once pursuant to California Government Code section 6061 in full in a newspaper of general circulation which is printed, published, and circulated in the District. If there is no such newspaper, the ordinance shall be posted within the District after its adoption in three public places.

Introduced at a regular meeting of the Board of Directors of the Rosamond Community Services District, Rosamond, California, held on the 11th day of March, 2009;

Enacted at a regular meeting of the Board of Directors of the Rosamond Community Services District, Rosamond, California, held on the 25th day of March, 2009, by the following vote: 5 Ayes, 0 Noes.



Kathleen Spoor, President
Board of Directors
Rosamond Community Services District

ATTEST:

Lizette Guerrero, Secretary of the Rosamond Community
Services District and the Board of Directors thereof

Exhibit A

Rules and Regulations of the District's Water Conservation (No Waste) Program

Section 1. Mandatory Conservation Stage Implementation.

(A) The District General Manager, or his or her designee, shall monitor the projected supply and demand for water by water customers on a daily basis during periods of a water shortage or drought and shall recommend to the Board of Directors the extent of the conservation required through the implementation and/or termination of particular water conservation stages to prudently plan and supply water to water customers. Thereafter, the Board of Directors may order the implementation or termination of the appropriate water conservation stage.

(B) The declaration of any water conservation stage beyond Water Conservation Stage 1 shall be made by resolution of the Board of Directors. Within ten (10) days of the adoption of the resolution declaring the applicable Water Conservation Stage, the District shall make a public announcement of the applicable Water Conservation Stage, which shall be published a minimum of three (3) times for three (3) consecutive weeks. Three publications in a newspaper regularly published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. Such declaration and notice shall provide the extent, terms, and conditions respecting the use and consumption of water in accordance with the applicable water conservation stage as provided in this ordinance. Upon such declaration and publication of such notice, due and proper notice shall be deemed to have been given to each and every person supplied water within the District. The water conservation stage designated shall become effective immediately upon announcement.

(C) The declaration of a water shortage emergency during any water conservation stage shall be made in accordance with California Water Code sections 350 *et seq.*

Section 2. Violations and remedies.

(A) It shall be unlawful for any person to willfully violate the provisions of this ordinance. Any violation of the provisions of this ordinance shall be a misdemeanor subject to imprisonment in the county jail for not more than thirty (30) days or by fine not to exceed \$1,000, or by both as provided in California Water Code section 377.

(B) Upon conviction of a misdemeanor for violating any provision of this ordinance, a person shall be subject to payment of a fine, imprisonment or both, not to exceed the limits set forth by law.

(C) Upon conviction of an infraction for violating any provision of this ordinance, a person shall be subject to payment of a fine, not to exceed the limits set forth by law.

(D) In addition to criminal penalties, any conditions caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to the public health, safety, and welfare and may be declared and deemed, after an administrative hearing, to be a public nuisance which may be summarily abated. The cost of such abatement shall be borne by the property owner of the premises and the cost thereof may be imposed as a lien upon and against the premises, and as such lien shall continue in existence until the same shall be paid.

(E) In addition to any other remedies provided in this ordinance or available under applicable law, the District can alternatively seek injunctive relief in the Superior Court or take enforcement action, including discontinuing or appropriately limiting water service to any customer, against any person who violates any provision of this ordinance through one or any combination of the administrative enforcement options set forth in this ordinance.

(F) All remedies provided herein shall be cumulative and not exclusive.

Section 3. Notice of violation.

(A) The District General Manager or his or her designee may serve a notice of violation onto the property owner and/or occupant of any property, and/or any other person responsible for a violation of this ordinance. The notice of violation shall:

- (1) identify the provision(s) of this ordinance and any State law, if applicable, alleged to have been violated; and
- (2) state that continued noncompliance may result in civil, criminal, or administrative enforcement actions against the person who committed the violation, or the property owner and/or occupant of the property where the violation occurred; and
- (3) state a compliance date that must be met by the person who committed the violation, or the property owner and/or occupant of the property where the violation occurred; and
- (4) order remediation work, where applicable, that must be taken by the property owner and/or occupant of the property.

(B) The notice of violation may include, where deemed applicable by the District General Manager or his or her designee, the following terms and conditions:

- (1) specific steps or actions and time schedules for compliance as reasonable necessary to prevent future violations of this ordinance; and

(2) specific steps or actions and time schedules for compliance as necessary to prevent further violations; and

(3) any other terms, conditions, or requirements reasonably calculated to prevent continued or threatened future violations of this ordinance, including, but not limited to, discontinuing or limiting water service with the installation of a flow restricting device.

(C) In addition to or in conjunction with the notice of violation, for a first violation of any provision of this ordinance, within two weeks of the violation:

(1) the District may provide notice to the property owner or occupant of the property where the violation occurred to advise such person of:

(a) the water conservation stage then in effect and the provisions of this ordinance relating thereto;

(b) water conservation and drought response measures that are required and may be implemented pursuant to this ordinance;

(c) possible consequences and actions which may be taken by the District for future violations of this ordinance, including discontinuance of water service;

(d) penalties that may be imposed for the specific violation and any future violations of this ordinance; and

(2) if the District General Manager or his or her designee deems it to be appropriate, the District may order the installation of a flow-restricting device on the service line for any person who violates any term or provision of this ordinance.

(D) In addition to or in conjunction with the notice of violation, for a second or any subsequent violation of this ordinance, within two weeks of the violation:

(1) the District may provide notice to the property where the violation occurred to notify the property owner or occupant of the property where the violation occurred to advise such person of:

(a) the water conservation stage then in effect and the provisions of this ordinance relating thereto;

(b) the water conservation and drought response measures that are required and may be implemented by such person; and

(c) possible consequences which may occur in the event of any future violations of this ordinance;

(2) if the District General Manager or his or her designee deems it to be appropriate, the District may order the installation of a flow-restricting device on the service line for any person who violates any term or provision of this ordinance;

(3) if the District General Manager or his or her designee deems it to be appropriate, the District may discontinue water service at the location where the violation occurred.

(E) The District may, after one written notice of violation, order that a special meter reading or readings be made in order to ascertain whether wasteful or unreasonable use of water is occurring. The District may impose a meter reading fee for each meter reading it conducts pursuant to this ordinance.

Section 4. Cease and desist order.

(A) The District General Manager or his or her designee may issue a cease and desist order directing the property owner, or occupant, or other person in charge of day-to-day operations of any property, and/or any other person responsible for a violation of this ordinance to:

- (1) immediately discontinue any prohibited use of water pursuant to this ordinance;
- (2) immediately cease any activity not in compliance with the terms, conditions, and requirements of this ordinance.

Section 5. Administrative compliance order and penalties.

(A) Separate from, in addition to, or in combination with a notice of violation or cease and desist order, the District General Manager or his or her designee may issue an administrative compliance order against the property owner and/or occupant of the property where a violation of this ordinance occurred and/or any other person responsible for a violation of this ordinance who violates any provision of this ordinance. Issuance of a notice of violation or a cease and desist order is not a prerequisite to the issuance of an administrative compliance order. The administrative compliance order shall allege the act(s) or failure(s) to act that constitute violations of this ordinance and shall set forth the penalty for the violation.

(B) The District General Manager or his or her designee may impose the following monetary penalties, in addition to other appropriate action requirements:

- (1) An amount that shall not exceed one hundred dollars (\$100.00) for each day a person fails or refuses to timely comply with a notice of violation or cease and desist order required by the District General Manager or his or her designee or this ordinance.
- (2) An amount that shall not exceed one thousand dollars (\$1,000.00) per day for each day on which a person violates any provision of this ordinance. Unless timely

appealed, an administrative compliance order shall be effective and final as of the date it is issued by the District General Manager or his or her designee.

(C) The amount of any penalties imposed pursuant to this Section 15 which have remained delinquent for a period of sixty (60) days shall constitute a lien against the real property of the person violating this ordinance. The lien provided herein shall have no force and effect until recorded with the Kern County Recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for ten (10) years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the California Code of Civil Procedure.

(D) All moneys collected under this Section 15 shall be deposited in a special account of the District and shall be made available for enforcement of this ordinance.

(E) The District may, at its option, elect to petition the Superior Court to confirm any order establishing administrative penalties and enter judgment in conformity therewith in accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.

Section 6. Separate Offenses.

A person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this ordinance is committed, continued, or permitted.

Section 7. Civil actions.

(A) In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by the District.

(B) In any such action, the District may seek, and the court may grant, as appropriate, any or all of the following remedies:

- (1) a temporary and/or permanent injunction;
- (2) assessment of the violator for the costs of any investigation which led to the establishment of the violation and for the reasonable costs of preparing and bringing legal action under this ordinance;
- (3) any other costs incurred in enforcing the provisions of this ordinance.

(C) Assessments under this subsection shall be paid to the District to be used exclusively for costs associated with implementing or enforcing the water conservation and regulatory provisions of this ordinance.

Section 8. Recovery of costs.

(A) The District General Manager or his or her designee shall serve an invoice for costs upon the property owner and/or occupant of any property, or any other responsible person who is subject to a notice of violation, a cease and desist order, or an administrative compliance order. An invoice for costs shall be immediately due and payable to the District. If any property owner or person in charge of day-to-day operations, customer, or responsible party, or any other person fails to either pay the invoice for costs or appeal successfully the invoice for costs in accordance with this ordinance, then the District may institute collection proceedings. The invoice for costs may include reasonable attorneys' fees.

(B) The District shall impose any other penalties or regulatory fees, as fixed from time to time by the Board of Directors, for a violation or enforcement of this ordinance.

(C) In order to recover the costs of the water conservation regulatory program set forth in this ordinance, the Board of Directors may, from time to time, fix and impose fees and charges. The District fees and charges may include, but are not limited to fee and charges for:

- (1) any visits of an enforcement officer or other District staff for time incurred for meter reading, follow-up visits, or the installation or removal of a flow-restricting device;
- (2) monitoring, inspection, and surveillance procedures pertaining to enforcement of this ordinance;
- (3) enforcing compliance with any term or provision of this ordinance;
- (4) reinitiating service at a property where service has been discontinued pursuant to this ordinance;
- (5) processing any fees necessary to carry out the provisions of this ordinance.

Section 9. Notices.

(A) Any notice, notice of violation, cease and desist order, and administrative compliance order shall be served pursuant to the requirements of this ordinance and shall:

- (1) state that the recipient has a right to appeal the matter as set forth in this ordinance;

(2) include the address of the affected property and be addressed to the property owner as shown on the most recently issued equalized assessment roll or as may otherwise appear in the current records of the District. If the order applies to a responsible party who is not the owner of the property or if the event is not related to a specific property, the notice may be sent to the last known address of the responsible party; and

(3) be deemed served ten (10) business days after posting on the property, if the property owner or occupant of the affected property cannot be located after the reasonable efforts of the District General Manager or his or her designee.

(B) Any notice of violation, cease and desist order, and administrative compliance order may be sent by regular mail. Service by regular mail is effective on the date of mailing.

Section 10. Appeals.

Any person subject to a notice of violation, cease and desist order, or administrative compliance order aggrieved by the issuance of an order may appeal from the issuance thereof to a hearing officer in accordance with the appeal procedures of the District of this Code except that any such appeal shall be filed within fifteen (15) days of the date of service of the notice of violation, cease and desist order, or administrative compliance order by the District General Manager or his or her designee upon the appealing party.

Section 11. Relief from compliance.

Consideration of written applications for relief from compliance (“relief”) regarding the regulations and restrictions on water use set forth in this ordinance may be made by the District.

(A) Written applications for relief shall be accepted, and may be granted or denied, by the General Manager (the “approving authority”), at his or her sole discretion, or by his or her designee at his or her sole discretion. The application shall be in a form prescribed by the District and shall be accompanied by a non-refundable processing fee in an amount as determined by the Board of Directors for the purpose of defraying the costs incidental to the proceedings.

(B) The grounds for granting or conditionally granting relief are:

(1) due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a person using District water or to property upon which District water is used, that is disproportionate to the impacts to other District water users generally or to similar property or classes of water users; or

(2) failure to grant relief would adversely affect the health, sanitation, fire protection, or safety of the applicant or the public.

(C) The application for relief shall be accompanied, as appropriate, with photographs, maps, drawings, and other information substantiating the applicant's request, including a statement of the applicant.

(D) An application for relief shall be denied unless the approving authority finds, based on the information provided in the application, supporting documentation, or such other additional information as may be requested, and on water use information for the property as shown by the records of the District, all of the following:

(1) That the relief does not constitute a grant of special privilege inconsistent with the limitations upon other District customers.

(2) That because of special circumstances applicable to the property or its use, the strict application of this ordinance would have a disproportionate impact on: (a) the property or use that exceeds that customers generally; or (b) the applicant's health that exceeds customers generally.

(3) That the authorization of such relief will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the District to effectuate the purposes of this ordinance and will not be detrimental to the public interest.

(4) That the condition or situation of: (a) the subject property or the intended use of the property for which the relief is sought is not common, recurrent, or general in nature; or (b) the applicant's health or safety is not common, recurrent, or general in nature.

(E) The denial or grant of a relief shall be acted upon within fifteen (15) days of the submittal of the complete application, including any photographs, maps, drawings, and other information substantiating the applicant's request and the statement of the applicant. The application may be approved, conditionally approved, or denied. The decision of the approving authority shall be prepared in writing, include terms and conditions, if any, and promptly sent to the applicant.

(F) The denial of a request for relief may be appealed in writing to the Secretary of the Board. An appeal shall be made in accordance with the following procedures:

(1) The person appealing the denial of the request for relief ("appellant") shall complete and submit in writing a form provided by the District for such purpose and shall state in such form the grounds for his or her appeal. All appeals shall be submitted to the Secretary of the Board within thirty (30) calendar days of the date of the notice of the denial of the request for relief.

(2) The General Manager, or his or her designee, shall review the appeal and any related information provided, and, if necessary, cause an investigation and report to be made concerning the request for relief. The General Manager, or his or her designee, shall have fifteen (15) calendar days from the submission of the appeal to render a decision on whether to grant the appeal and mail notice thereof to the appellant. If the General Manager, or his or her designee, grants the appeal and determines that the request for a relief shall be granted, then within fifteen (15) calendar days of such determination the General Manager, or his or her designee, shall give written notice thereof.

(3) The decision of the General Manager, or his or her designee, may be appealed by the appellant to the Board of Directors. Such appeal must be submitted in writing and filed with the District Secretary within fifteen (15) calendar days of the date of decision of the General Manager, or his or her designee. The Board of Directors shall conduct a hearing on such appeal at its next regularly scheduled Board of Directors meeting; provided, however, the Board of Directors shall have received the notice of appeal at least fifteen (15) calendar days prior to such meeting. If the appeal is not submitted within at least fifteen (15) calendar days prior to a regularly scheduled Board of Directors meeting, then the hearing shall be held at the following regularly scheduled Board of Directors meeting. A notice of the hearing shall be mailed to the appellant at least ten (10) calendar days before the date fixed for the hearing. The Board of Directors shall review the appeal de novo. The determination of the Board of Directors shall be conclusive and shall constitute a final order. Notice of the determination by the Board of Directors shall be mailed to the appellant within ten (10) calendar days of such determination and shall indicate whether the appeal has been granted in whole or in part and set forth the terms and conditions of the relief, if any, granted to the appellant. If the appeal is denied, the appellant shall comply with all terms and conditions of this ordinance and the applicable water conservation stage then in effect.

(4) Until the conclusion of the appeal process, all provisions and decisions under appeal shall remain in full force and effect until the conclusion of the appeal process.