ORDINANCE NO. 2008-18

ORDINANCE OF THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT MAKING FINDINGS, ADOPTING A WATER CONSERVATION PROGRAM SUPERSEDING ORDINANCE NO. 91-14 AND TAKING RELATED ACTIONS

THE BOARD OF DIRECTORS OF THE TRABUCO CANYON WATER DISTRICT DOES ORDAIN AS FOLLOWS:

Section I: Authority:

This Ordinance No. 2008-18 ("Ordinance") is enacted pursuant to Sections 30000 *et seq.*, including, but not limited to, Sections 31026-31029, inclusive, and Sections 375–377, inclusive, of the Water Code of the State of California. The Trabuco Canyon Water District (TCWD or DISTRICT) may establish additional guidelines, penalties, cost recovery systems, enforcement procedures and other rules and regulations to assist in the conservation of water. TCWD has the power to restrict the use of water supplied to TCWD customers during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of water supplied to TCWD customers, or the use of water, during such periods. TCWD may prohibit use of such water during such periods for specific uses which TCWD may, from time to time, find to be nonessential.

Section II. Findings and Determinations:

The Board hereby finds and determines as follows:

a. A reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of the southern California region.

b. Southern California is a semi-arid region and is largely dependent upon imported water supplies. A growing population, climate change, environmental concerns, and other factors in other parts of the State and western United States, make the region highly susceptible to water supply reliability issues and situations.

c. Careful water management, which includes active water conservation measures not only in times of drought but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.

d. Trabuco Canyon Water District is a county water district organized and operating pursuant to the laws of the State of California and which has, as one of its functions, the authority to provide for the provision of water and water services to its customers.

e Article X, Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.

f. California Water Code Section 375 authorizes public agency water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.

g. California Water Code Sections 31026-31029, inclusive, authorize county water districts to provide for restrictions and limitations on use of water during drought and/or threatened or existing water shortage situations.

h. TCWD has undertaken various efforts, planning efforts and facilities projects to improve and support local water supplies, water re-use and imported water facilities and arrangements in order to meet water demands of TCWD's current and future customers; however, circumstances do occur, and may occur in the future, which necessitate planning and measures to address water shortages on state-wide and local levels.

i. The adoption and enforcement of a water conservation and supply shortage program is necessary to manage the District's potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the District. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

j. The protection, conservation, and management of local and imported water supplies are one of the main functions of TCWD as a public agency water provider. The Board of Directors of TCWD, based on the actions mandated by the Governor of the State of California, the Metropolitan Water District of Southern California (MWD) and the Municipal Water District of Orange County (MWDOC) and a review of the factual circumstances, has determined the necessity of adopting and implementing a comprehensive, mandatory water conservation plan to reduce overall District usage to meet mandated levels and have declared a water shortage emergency within the State of California.

k. It is known that the public agencies supplying water to TCWD may mandate water rationing to the District because of limited supplies.

l. It is known that the distribution or storage facilities of public agencies supplying water to TCWD may become inadequate to meet demands.

m. That due to circumstances or events beyond the control of TCWD or other public agencies, a major failure of the supply, storage and distribution facilities of the public agencies supplying water to TCWD may occur.

Section III. <u>Declaration of Purpose and Intent:</u>

a. The purpose of this Ordinance is to establish a water conservation and supply shortage program in order to (i) reduce water consumption within the District through conservation, (ii) allow for effective water supply planning, (iii) assure reasonable and beneficial use of water, (iv) prevent waste of water at all times, and (v) maximize the efficient use of water within the District to avoid and minimize the effect(s) and hardship of water shortage(s) to the greatest extent possible.

b. This Ordinance establishes permanent water conservation standards intended to alter behavior related to water use efficiency for non-shortage conditions and further establishes three levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergencies, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies as determined by the Board.

Section IV. <u>Definitions:</u>

a. The following words and phrases whenever used in this Ordinance shall have the meaning defined in this section:

1. **"Billing Unit"** means the unit of water used to apply water rates for purposes of calculating water charges for a person's water usage and equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.

2. **"Board"** means the Board of Directors of the District.

3. **"District"** or **"TCWD"** means the Trabuco Canyon Water District, a county water district organized and operating pursuant to the laws of the State.

4. "**Effective Date**" means the date this Ordinance becomes effective.

5. **"Efficiency Standard"** means the percentage of water delivered to plant roots that is used beneficially.

6. "**Enforcing attorney**" means TCWD's General Legal Counsel, acting as counsel to the District and his/her/their designee(s), or the Orange County District Attorney, which counsel is authorized to take enforcement action as set forth herein.

7. "**Impervious surface**" means a constructed or modified surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, sidewalks, driveways, parking lots, v-ditches, gutters and roadways.

8. **"Landscape Irrigation System"** means an irrigation system which is used for watering landscape, greenbelts and similar which may include pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.

9. **"Large Landscape Areas"** means a lawn, greenbelt, landscape, or other vegetated area, or combination thereof, equal to more than one (1) acre of irrigable land.

10. "**Major Water Users**" means those District customers within any specific customer classification which are using or consuming more than the allocated billing units for that classification.

11. "**Non-essential water use**" means the application or usage of water for functions or additional activities which do not have any health or safety impacts, are not required by regulation, and are not part of the core function or business process at a site.

12. **"Ordinance"** means this Ordinance No. 2008-18 as adopted, and as such may be amended by the District from time to time.

13. **"Person"** means any natural person, property owner, renter, or lessee, as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, homeowners' association, joint venture, business entity, or other similar entity, or the property management company, property manager, agent, employee or representative of any of the above.

14. **"Potable Water"** means water which is suitable for drinking.

15. "**Properly programmed**" refers to a timer based, weather-based, and/or sensor-based irrigation controller that has been programmed according to the manufacturer's instructions and site-specific conditions.

16. "**Quasi-Public Entity**" means an entity, other than a governmental agency, whether characterized by statute as a public corporation, public instrumentality, or otherwise, that is expressly created by statute for the purpose of administration of a State or local function.

17. **"Reclaimed Water"** means non-potable water which has been treated at a wastewater treatment facility and is available for irrigation use.

18. **"Recycled Water"** means non-potable water collected by the District from dry season water flow or storm water flow and is available for irrigation use.

19. "**Sensor-based irrigation controller**" means an irrigation controller that operates based on input received from any combination of sensors, such as rain, solar radiation, and soil moisture sensor, installed within and/or around the irrigated landscape area.

20. "**Single Pass Cooling Systems**" means equipment where water is circulated only once to cool systems and/or equipment before being disposed of.

21. **"State"** means the State of California.

22. "**Stormwater drainage system**" means any street, street gutter, sidewalk, alleyway, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of or tributary to the county-wide stormwater runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any NPDES permit co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of stormwater.

23. "**Timer Based Irrigation Controller**" means an irrigation controller that is adjustable by day, date, and time per irrigation station.

24. "**Urban runoff**" means all flows in the stormwater drainage system and consists of stormwater and non-stormwater flows.

25. **"Water Waste"** means uses of water which are prohibited or limited, going beyond the purpose of necessary or intended use, including area runoff, and which could reasonably be prevented.

26. **"Water Conservation Coordinator"** is the District's General Manager or his/her designee(s) or such other officer(s) or employee(s) of the District as the District shall direct.

27. "**Water Quality Regulations**" are the storm water regulations as defined by the respective jurisdiction of the County of Orange, the Orange County Flood Control District or any NPDES permit co-permitee city.

28. "**Weather-based irrigation controller**" means an irrigation controller that operates based on evapotranspiration rates and historic and/or real-time weather data.

Section V. Application:

a. The provisions of this Ordinance apply to any person in the use of any Potable Water provided by the District.

b. The provisions of this Ordinance shall apply within the District's boundaries and to District customers.

c. The provisions of this Ordinance do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services.

d. The provisions of this Ordinance do not apply to the use of Reclaimed Water or Recycled Water, with the exception of Section VI(a).

e. This Ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. This Ordinance shall not act to repeal, supersede or amend any federal, State or local law, ordinance or regulation relating to protection of water quality or control of drainage or runoff (including, but not limited to, any and all NPDES permits or requirements which may be applicable in such instance) or exempt any person or party from compliance therewith.

Section VI: Permanent Water Conservation Requirements – Prohibition Against Waste:

The following water conservation requirements shall be effective at all times while this Ordinance is in effect (unless otherwise specifically determined and directed by the Board). Violations of this section shall be considered waste and an unreasonable use of water.

a. **Limits on Watering Hours**: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 6:00 p.m. Pacific Standard Time on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

b. **Limit on Watering Duration**: Watering or irrigating of lawn, landscape or other vegetated area with potable water using a Landscape Irrigation System or a watering device that is not continuously attended is limited to no more than ten (10) minutes watering per station, per day. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

c. **No Watering While Raining:** No person shall allow lawns, groundcover, shrubbery, other landscape material, or open ground, to be watered at any time while it is raining. Automatic irrigation controllers may be turned off manually, or connected to a rain shutoff device. Effective July 1, 2010, all irrigation controllers associated with dedicated landscape meters shall have a rain shutoff device which overrides the program in the event of rainfall.

d. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, parking lot, driveway, street, alley, gutter or ditch is prohibited.

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

f. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected is prohibited. For irrigation applications, if unattended malfunctions are observed to be causing excessive loss of water, the District may, at its sole discretion, turn off the irrigation to the affected area until such time the property owner can respond to correct the malfunction.

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

h. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.

i. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, club or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

j. **Commercial Lodging Establishments Must Provide Option to Not Launder Linen Daily**: Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments shall prominently display notice of this option in each bathroom using clear and easily understood language. Commercial visitor-serving facilities must also ensure that such facility displays, in places visible to all customers, placards or decals approved by the District, promoting public awareness of the need for water conservation.

k. **No Installation of Single Pass Cooling Systems**: Installation of single pass cooling systems is prohibited in buildings applying for new water service from the District.

l. **No Installation of Non-re-circulating Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.

m. **Commercial Car Washes.** Commercial car wash facilities shall not permit the washing of any boat or vehicle in such facility or on its premises, other than by the following methods:

   i. Use of mechanical automatic car wash facilities utilizing water recycling equipment;
   ii. Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;
   iii. Use of a hose equipped with an automatic shutoff nozzle; and/or

iv. Use of bucket and hand washing.

(1) All wash/rinse water must be captured and recycled or discharged into the sanitary sewer system through an appropriate treatment system, after obtaining a special discharge permit from the appropriate wastewater Authority.

(2) All new commercial conveyor car wash facilities shall be equipped with a water recycling system.

n. **Washing of Equipment and Machinery**: No person shall use a water hose to wash any type of equipment or machinery, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle.

THE DISTRICT NOTES THAT APPLICABLE NPDES REQUIREMENTS INCLUDE: All wash water from such washing/cleaning activity must be prevented from discharging to the stormwater drainage system. All wash water from such washing/cleaning containing chemicals shall be discharged into the sanitary sewer system through an appropriate treatment system. Any person discharging water containing chemicals is required to first obtain a special discharge permit from the South Orange County Wastewater Authority before such water can be discharged to the sanitary sewer.

o. **Cleaning of Structures:** No person shall use water through a hose, including pressure-washing, to clean the exterior of any building or structure unless such hose is equipped with an automatic shutoff nozzle.

THE DISTRICT NOTES THAT APPLICABLE NPDES REQUIREMENTS INCLUDE: All wash water from such activity must be prevented from discharging to the stormwater drainage system, and shall comply with the City's Water Quality Regulations and Best Management Practices.

p. **Swimming Pools and Spas:** No person shall empty and refill a swimming pool except to prevent or repair structural damage or to comply with public health regulations or directives, or upon written recommendation of a pool maintenance or repair professional.

THE DISTRICT NOTES THAT APPLICABLE NPDES REQUIREMENTS INCLUDE: Discharge of pool or spa water, other than directly to the sanitary sewer system, shall be consistent with the City's Water Quality Regulations and Best Management Practices. Discharge of pool or spa filter backwash water to the stormwater drainage system is prohibited. All pools and spas shall be equipped with a water recirculation device. The use of a pool/spa cover is strongly encouraged to prevent evaporative water loss, and for the additional energy and chemical saving benefits.

q. **Commercial Laundry Facilities, Laundromats and Common Area Laundry Rooms**: Commercial laundry facilities designed, constructed or reconstructed after the Effective Date of this Ordinance shall be equipped with a water reclamation system for reuse of rinse water. Laundromats and common area laundry rooms shall install high efficiency clothes washing machines as older machines are replaced.

r. **Food Service Facilities:**

1. **Drinking Water**: Food service facilities within the District's service area shall not serve or refill water to customers or patrons, except upon request of such customer(s) or patron(s).

2. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves**: Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.

3. **Dishwashing and Garbage Disposals:** All commercial kitchens with dishwashing facilities shall encourage the activity of scraping food waste, into a garbage can rather than using a garbage disposal. All existing pre-rinse spray nozzles shall be retrofitted to models using 1.6 gallons per minute or less, by July 1, 2010.

4. **Public Awareness:** The owner / manager of each restaurant, and other visitor-serving facility shall ensure that such facility displays, in places visible to all customers, placards or decals approved by the District, promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

5. **Other Water Using Activities**: Defrosting food with running water shall be avoided and discouraged. If using a hose for wash down of kitchens, garbage areas, or any other area required by the health department or for sanitation reasons, it shall have a positive shut off nozzle. Scoop sinks shall be set at minimum flow at all times, and during hours of operation carefully monitored to avoid using water unnecessarily when the scoop sink is not in active use.

6. **New or Remodeled kitchens**: All other water using equipment in kitchens which are designed, constructed, reconstructed or remodeled after the Effective Date of this Ordinance shall use the best available water conserving technology.

s. **Construction:**

1. All water hoses used in connection with any construction activities shall be equipped with an automatic shutoff nozzle when an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose in use.

   THE DISTRICT NOTES THAT APPLICABLE NPDES REQUIREMENTS INCLUDE: All water used on a construction site shall be prevented from entering any part of the stormwater drainage system.

t. **Use of Hydrants:** No person may use water from any District fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining a District hydrant meter account or written approval from the Water Conservation Coordinator or his/her designee. Absent such a meter or written permission, current District water theft and meter tampering penalties, charges and policies will be applied based on the District's then-existing Rules and Regulations.

u. **Water Spillage and Runoff**: Every person shall minimize runoff beyond the immediate area of use. Every person is deemed to have under his/her control at all times his/her water distribution lines and facilities, and to know the manner and extent of his/her water use and excess runoff. Gutter flooding is specifically prohibited.

v. **Indiscriminate Use:** No person shall cause or permit the indiscriminate running of water not otherwise prohibited above which is wasteful and without reasonable purpose.

w. **Public Health and Safety:** These regulations shall not be construed to limit water use which is immediately necessary to protect public health and/or safety.

Section VII: Level 1 Water Supply Shortage (WATER WATCH)

a. A Level 1 Water Supply Shortage exists when the District determines, in its sole discretion, that due to drought or other water supply reductions, a water supply shortage exists, or will exist, and a consumer demand reduction is necessary to ensure sufficient supplies will be available to meet anticipated demands. Upon the declaration by the District of a Level 1 Water Supply Shortage condition, the District will direct implementation of those the mandatory Level 1 conservation measures as identified in this Section VII. The type of event that may prompt the District to declare a Level 1 Water Supply Shortage may include (but shall not be limited to), among other factors, a finding that the District's wholesale water provider(s) calls for extraordinary water conservation.

b. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section VI, the following water conservation requirements may be applied during a declared Level 1 Water Supply Shortage:

1. **All non-essential water use shall cease.**

2. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to four days per week on a schedule established and posted by the District. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than three days per week on a schedule established and posted by the District. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

3. **Limit on Watering Duration**: Watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than five (5) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard

4. **Obligation to Fix Leaks, Breaks or Malfunctions**: All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within seventy-two (72) hours of notification by the District unless other arrangements are made with the District.

5. **Pavement/surface washing:** Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas except to alleviate immediate fire or sanitation hazards.

6. **Other Prohibited Uses:** The District may implement other prohibited water uses as determined by the District, after notice to customers.

The determination as to which of the water conservation requirements listed above shall apply during a Level 1 Water Supply Shortage shall either be made by the Board at the time the Level 1 Water Supply shortages declared or such determination may be delegated by the Board to the General Manager or the Water Conservation Coordinator, as the Board shall direct.

Section VIII. Level 2 Water Supply Shortage (WATER ALERT)

a. A Level 2 Water Supply Shortage exists when the District determines, in its sole discretion, that due to drought or other supply reductions, a water supply shortage exists, or will exist, and a consumer demand reduction is necessary to ensure sufficient supplies will be available to meet anticipate demands. Upon the declaration by the District of a Level 2 Water Supply Shortage condition, the District will direct implementation of those mandatory Level 2 conservation measures as identified in this section.

b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Sections VI and VII, the following additional water conservation requirements may be applied during a declared Level 2 Water Supply Shortage:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to two days per week on a schedule established and posted by the District. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the District. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions**: All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within forty-eight (48) hours of notification by the District unless other arrangements are made with the District.

3. **Lakes, ponds, fountains, and other water features**. The operation of any ornamental fountain or similar structure is prohibited.

4. **Limits on Filling Ornamental Lakes or Ponds**: Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life or to protect public health or sanitation, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this Ordinance.

5. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

6. **Other Prohibited Uses:** The District may implement other prohibited water uses as determined by the District, after notice to District customers.

7. **Water Allocations / Water Budget**: The District, at its option, may establish a water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. The District shall provide written notice of such allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service.

   Following the effective date of such water allocation as established by the District, any person that uses water in excess of the allocation will be subject to a penalty in the amount of 10% of the charge for each tier of water used. The penalty for excess water usage will be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.

8. **Mandatory Percentage Use Reduction:** During a Level 2 Water Supply Shortage condition, all customers will be required to reduce water consumption by a percentage determined by the District.

The determination as to which of the water conservation requirements listed above shall apply during a Level 2 Water Supply Shortage shall either be made by the Board at the time the Level 2 Water Supply shortage s declared or such determination may be delegated by the Board to the General Manager or the Water Conservation Coordinator, as the Board shall direct.

Section IX. Level 3 Water Supply Shortage – (WATER EMERGENCY)

a. A Level 3 Water Supply Shortage condition is also referred to as a "Level 3 Emergency" condition. A Level 3 Emergency condition exists when the Board declares a water shortage emergency and notifies District residents, businesses and customers that a significant reduction in consumer demand is necessary to ensure sufficient supplies will be available to meet anticipated health and safety consumer demands. Upon the declaration of a Level 3 Water Supply Shortage Emergency condition, the District will direct implementation of the mandatory Level 3 conservation measures as identified in this Section.

b. A Level 3 Emergency exists when the Board finds and declares a water shortage emergency condition pursuant to California Water Code section 350 and notifies its residents and businesses that more than a 30% consumer demand reduction, based on customer type, is required to ensure sufficient supplies for human consumption, sanitation and fire protection. The Board must declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code Section 350.in order for a Level 3 Emergency condition to exist for purposes of this Ordinance.

c. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Sections VI, VII, and VIII, the following water conservation requirements may be applied during a declared Level 3 Emergency:

   1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use:

      i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self–closing water shut-off nozzle or device, or a very low-flow drip type irrigation

systems when no emitter produces more than two (2) gallons of water per hour subject to the hour restrictions in Section VI(a).

ii. Maintenance of existing landscape necessary for fire protection;

iii. Maintenance of existing landscape for soil erosion control;

iv. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

v. Maintenance of landscape within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Section VIII(b)(1) and time restrictions in Section VI(a) and (b)(1);

vi. Public works projects and actively irrigated environmental mitigation projects.

2. **No Washing of Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited.

3. **Obligation to Fix Leaks, Breaks or Malfunctions**: All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within twenty four (24) hours of notification by the District unless other arrangements are made with the District.

4. **No New Potable Water Service**: Upon declaration of a Level 3 Emergency condition, no new potable water service will be provided by the District, no new temporary meters or permanent meters will be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) will be issued by the District, except under the following circumstances:

   1. A valid, unexpired building permit has been issued for the project;
   2. The project is necessary to protect the public's health, safety, and welfare; and/or
   3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

   This subsection does not preclude the resetting or turn-on of meters to provide continuation of water service or the restoration of service that has been interrupted for a period of one year or less.

5. **Discontinue Service**: The District, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this Section.

6. **Other Prohibited Uses**: The District may implement other prohibited water uses as determined by the District, after notice to customers.

The determination as to which of the water conservation requirements listed above shall apply during a Level 3 Water Supply Shortage shall either be made by the Board at the time the Level 3 Water Supply shortage s

declared or such determination may be delegated by the Board to the General Manager or the Water Conservation Coordinator, as the Board shall direct.

Section X. Procedures for Determination / Notification of Water Supply Shortage

a. **Declaration and Notification of Level 1 & 2 Water Supply Shortage:** The existence of Level 1 and Level 2 Water Supply Shortage conditions may be declared by resolution adopted by the Board at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements applicable to the Level 1 or Level 2 conditions, as determined by the Board, shall take effect on the tenth day after the date the shortage level is declared and identified. Within five days following the declaration of the shortage level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. Upon the cessation of a Level 1 or Level 2 Water Supply Shortage condition shall be determined by the Board, and notice thereof provided in the same manner as set forth above. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. A water allocation shall be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

b. **Declaration and Notification of Level 3 Water Supply Shortage:** The existence of a Level 3 Emergency condition may be declared in accordance with the procedures specified in Water Code Sections 351 and 352. The mandatory conservation requirements applicable to the Level 3 conditions, as determined by the Board as set forth herein shall take effect on the tenth (10) day after the date such shortage emergency is declared. Within five (5) days following the declaration of such shortage emergency, the District shall publish a copy of the resolution in a newspaper used for the publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. A water allocation shall be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

Section XI. Other Provisions

a. **Commercial Car Wash Systems**: Effective on January 1, 2011, all commercial conveyor car wash systems which use District water must have installed and operational re-circulating water systems or must have secured a waiver of this requirement from the District.

b. **Large Landscape Areas – Rain Sensors**: Large landscape areas, such as parks, cemeteries, golf courses, school grounds, and playing fields, that use landscape irrigation systems to water or irrigate, must use landscape irrigation systems with rain sensors that automatically shut off such systems during periods of rain or irrigation timers which automatically use information such as evapotranspiration sensors to set an efficient water use schedule.

c. **Reporting Mechanism - Hotline**: The District shall establish a water use/water waste hotline for residents and customers to report violations of this Ordinance or gross water waste.

Section XII. Hardship Waiver

a. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this Ordinance would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to District water users generally or to similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this Section XII.

b. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.

1. **Application**: Application for a waiver shall be on a form prescribed by the District and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the District.

2. **Supporting Documentation**: The application shall be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant in support of such application.

3. **Required Findings for Variance:** An application for a waiver shall be denied unless the Water Conservation Coordinator finds, based in the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the District or its Agent, all of the following:

   i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other District residents and businesses;

   ii. That because of special circumstances applicable to the property or its use, the strict application of this Ordinance would have a disproportionate impact on the property or use that exceeds the impacts to District residents and businesses generally.

   iii. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the District to effectuate the purpose of this Ordinance 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 waiver is sought is not common, recurrent or general in nature.

4. **Approval Authority**: The Water Conservation Coordinator shall exercise approval authority and act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver shall be promptly notified in writing of any action(s) taken. Unless specified otherwise at the time a waiver is approved, the waiver applies to the subject property during the term of the mandatory water supply shortage condition.

5. **Appeals to the District:** An applicant may appeal a decision or condition of the Water Conservation Coordinator on a waiver application to the Board within 10 days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the Board shall act as the approval authority and review the appeal de novo by following the regular waiver procedure. The decision of the Board shall be final.

Section XIII. Penalties and Violations

a. **Civil Penalties:** Civil penalties for failure to comply with any provisions of the Ordinance shall be as follows:

1. **First Violation:** The District shall issue a written warning and deliver a copy of this Ordinance in person or by mail.

2. **Second Violation:** A second violation within the succeeding twelve (12) calendar months after an initial violation is punishable by a fine not to exceed one hundred dollars ($100).

3. **Third Violation:** A third violation within the succeeding twelve (12) calendar months after an initial violation is punishable by a fine not to exceed two hundred and fifty ($250).

4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation after an initial violation is punishable by a fine not to exceed five hundred ($500). In addition, the District may also undertake the following actions:

i. **Water Flow Restrictor:** In addition to any fines, the District may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor for a minimum of forty eight (48) hours.

ii. **Termination of Service:** In addition to any fines and the installation of a water flow restrictor, the District may disconnect and/or terminate a customer's water service.

b. **Cost of Flow Restrictor and Disconnecting Service:** A person or entity that violates this Ordinance is responsible for payment of the District's charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the District's schedule of charges then in effect. The charge for installing and/or removing any flow restricting device shall be paid to the District before the device is removed. Nonpayment shall be subject to the same remedies as nonpayment of basic water rates.

c. **Separate Offenses**: Each day that a violation of this Ordinance occurs is a separate violation.

d. **Notice and Hearing**:

1. The District shall issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking any enforcement action described herein and such notice shall describe the enforcement action(s) to be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the District no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed shall be final. Upon receipt of a timely appeal, a hearing on the appeal shall be scheduled in a

timely manner, and the District shall mail written notice of the hearing to the customer at least ten (10) days before the date of the said hearing.

2. The process for an appeal of a notice of violation shall be established by the District in writing. The appeal may be before the Water Conservation Coordinator, the General Manager or the Board, or their respective designee(s), and shall involve such processes and presentation of information and evidence as the District shall so direct in writing.

3. Pending receipt or a written appeal or pending a hearing pursuant to an appeal, the District may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water Level condition.

Section XIV. Severability

If any section, subsection, sentence, clause or phrase in this Ordinance or the application thereof to any person or circumstance is for any reason held invalid, the validity of the remainder of the Ordinance or the application of such provision to other persons or circumstances shall not be affected thereby. The District hereby declares it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.

Section XV. Application of Law

The terms, provisions and conditions of this Ordinance not otherwise set forth herein shall be interpreted pursuant to State law.

Section XVI. Superseding Prior Ordinance

Ordinance No. 91-14 of the Trabuco Canyon water District is hereby repealed and superseded by this Ordinance No. 2008-18 upon this Ordinance No. 2008-18 becoming effective.

ORDAINED and APPROVED this 17th day of December, 2008.

TRABUCO CANYON WATER DISTRICT:

President/~~Vice President~~

Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Sharon E. Smith, Secretary of the Board of Trabuco Canyon Water District, do hereby certify that the foregoing ordinance was duly adopted by the Board of said District at a meeting of said Board held on the 17th day of December, 2008, of which meeting all of the members of the Board had due notice and at which a quorum thereof were present and acting throughout and for which notice and an agenda was prepared and posted as required by law and that at said meeting such resolution was adopted by the following vote:

AYES: DISSTON, SAFRANSKI, HASELTON, ACOSTA, MANDICH

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

Sharon E. Smith

Secretary of the Board
Trabuco Canyon Water District

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Sharon E. Smith, Secretary of the Board of Trabuco Canyon Water District, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 2008-18 of such Board and that the same has not been amended or repealed.

Dated this 17th day of December, 2008.

Sharon E. Smith

Secretary of the Board
Trabuco Canyon Water District

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