

RESOLUTION NO.

WHEREAS, the City of Los Angeles Emergency Water Conservation Plan (Plan) contained in Los Angeles Municipal Code §§121.00 through 121.11 was last amended in July 1990; and

WHEREAS, the Board of Water and Power Commissioners (Board) is committed to fulfilling its obligations to the next generation of Angelenos by creating sustainable sources of water for the future; and

WHEREAS, current water supply conditions require short-term strategies and long-range planning to sustain a reliable supply of water to meet current and future demand for water supplies; and

WHEREAS, on May 15, 2008, the Mayor of Los Angeles unveiled the City's Water Action Plan, calling for increased water conservation, water recycling, and other water management measures to ensure a sustainable water supply for Los Angeles; and

WHEREAS, the Mayor also called for enforcing and expanding the prohibited uses of water, extending outreach efforts to the public, and encouraging regional conservation measures in order to achieve short-term conservation goals; and

WHEREAS, the Department has prepared proposed amendments to the Plan to comply with the Mayor's conservation goals; and

WHEREAS, the proposed amendments to the Plan will expand the prohibited uses of water within the City and enable Los Angeles to respond to calls for increased conservation of water as conditions require.

NOW, THEREFORE BE IT RESOLVED, that this Board recommends that the Council of the City of Los Angeles adopt an ordinance in words and figures substantially as follows, to wit:.

(Proposed Modifications 6/43/08 – Strikeout Version)

## **ARTICLE I EMERGENCY WATER CONSERVATION PLAN**

**(Amended in Entirety by Ord. No. 166,080, Eff. 7/25/90.)**

Section

121.00 Scope and Title.

121.01 Declaration of Policy.

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**SEC. 121.00. SCOPE AND TITLE.**

This article shall be known as The Emergency Water Conservation Plan of the City of Los Angeles.

**SEC. 121.01. DECLARATION OF POLICY.**

It is hereby declared that because of the conditions prevailing in The City of Los Angeles and in the areas of this State and elsewhere from which the City obtains its water supplies, the general welfare requires that the water resources available to the City be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interests of the people of the City and for the public welfare.

**SEC. 121.02. DECLARATION OF PURPOSE.**

The purpose of this article is to provide a mandatory water conservation plan to minimize the effect of a shortage of water to the customers of the City and, by means of this article, to adopt provisions that will significantly reduce the consumption of water over an extended period of time, thereby extending the available water required for the

customers of the City while reducing the hardship of the City and the general public to the greatest extent possible, voluntary conservation efforts having proved to be insufficient ~~as of August 1, 1990.~~

### **SEC. 121.03. DEFINITIONS.**

The following words and phrases, whenever used in this article, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined within individual sections of this article:

- a. **“City”** means The City of Los Angeles.
- b. **“Mayor”** means the Mayor of The City of Los Angeles
- c. **“City Council”** means The Council of The City of Los Angeles.
- d. **“Department”** means the Department of Water and Power.
- e. **“Section”** means a section of this article unless some other ordinance or statute is specifically mentioned.
- f. **“Customer”** means any person, persons, association, corporation or governmental agency supplied or entitled to be supplied with water service by the Department.
- g. **“Article”** means the ordinance providing for **“The Emergency Water Conservation Plan of The City of Los Angeles”**.
- h. **“Conservation Phase”** means that level of mandatory water conservation presently required from customers pursuant to this article.
- i. **“Officer”** means every person designated in Section 200 of the Los Angeles City Charter as an officer of The City of Los Angeles. **(Amended by Ord. No. 173,307, Eff. 6/30/00, Oper. 7/1/00.)**
- j. **“His”** as used herein includes masculine, feminine or neuter, as appropriate.
- k. **“Process Water”** means water used to manufacture, alter, convert, clean, heat, or cool a product, or the equipment used for such purpose; water used for plant and equipment washing and for transporting-the raw materials and products; and water used to grow trees or plants for sale or installation.

~~—l.— **“Base Period”** means that period of time over which the base is computed.~~

~~m. “Base” means the amount of water used on a customer’s premises during the corresponding billing period in 1986.~~

~~Any customer who was not a customer on the premises for which service was billed by the Department during the base period shall be assigned the same base for such or similar premises as provided above, and the Department shall have the further discretion to adjust such base in the event such customer’s use of the premises is substantially different from the previous use thereof during the base period.~~

n.l. **“Billing Unit”** means the unit amount of water used to apply water rates for purposes of calculating commodity charges for customer water usage and equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.

~~o.m. “Grey Water” means a customer’s second or subsequent use of water supplied by the Department on the customer’s premises, such as the use of laundry or dishwashing water for other purposes.~~

~~n. “Irrigate” means any exterior application of water, other than for firefighting purposes or as process water, including but not limited to the watering of any vegetation whether it be natural or planted.~~

~~o. “Single pass cooling systems” means equipment where water is circulated only once to cool equipment before being disposed.~~

~~o. “Potable Water” means water supplied by the Department which is suitable for drinking and excludes recycled water from any source.~~

#### **SEC. 121.04. AUTHORIZATION.**

The various officers, boards, departments, bureaus and agencies of the City are hereby authorized and directed to immediately implement the applicable provisions of this article upon the effective date hereof.

#### **SEC. 121.05. APPLICATION.**

The provisions of this article shall apply to all customers and property served by the Department of Water and Power wherever situated, and shall also apply to all property and facilities owned, maintained, operated or under the jurisdiction of the various officers, boards, departments, bureaus or agencies of the City.

#### **SEC. 121.06. WATER CONSERVATION PHASES.**

A. No customer of the Department of Water and Power shall make, cause, use, or permit the use of water from the Department for any residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this article ~~or in an amount in excess of that use permitted by the Conservation Phase then in effect.~~ The waste or unreasonable use of water is prohibited.

B. For the purposes of this article a use of water by a tenant or by an employee, agent, contractor or other acting on behalf of a customer whether with real or ostensible authority shall be imputed to the customer. Nothing contained in this article shall limit the remedies available to a customer under law or equity for the actions of a tenant, agent, contractor or other acting on behalf of a customer.

### **SEC. 121.07. CONSERVATION PHASE IMPLEMENTATION.**

~~— A.~~ Notwithstanding any other provisions of this article, the provisions of Section 121.08A, Phase ~~IA, I.~~ Prohibited Uses applicable to all customers, shall take effect immediately upon the effective date of this article, shall be permanent and shall not be subject to termination pursuant to the provisions of this article providing for the termination of a conservation phase.

~~— B. — The Department shall monitor and evaluate the projected supply and demand for water by its customers monthly, and shall recommend to the Mayor and Council the extent of the conservation required by the customers of the Department in order for the Department to prudently plan for and supply water to its customers. The Mayor shall, in turn, independently evaluate such recommendation and notify the Council of the Mayor's determination as to the particular phase of water conservation, Phase IB through Phase V, that should be implemented. Thereafter, the Mayor may, with the concurrence of the Council, order that the appropriate phase of water conservation be implemented in accordance with the applicable provisions of this article. Said order shall be made by public proclamation and shall be published one time only in a daily newspaper of general circulation and shall become effective immediately upon such publication. The customer percentage curtailment provisions shall take effect with the first full billing period commencing on or after the effective date of the public proclamation by the Mayor.~~

~~— In the event the Mayor independently recommends to the Council a phase of conservation different from that recommended by the Department, the Mayor shall include detailed supporting data and the reasons for the independent recommendation in the notification to the Council of the Mayor's determination as to the appropriate phase of conservation to be implemented.~~

~~— B. —~~ Implementation of conservation Phase II and all subsequent phases will occur upon the assessment of the Board of Water and Power Commissioners of the City's water supply. If, in the judgment of the Board of Water and Power Commissioners, there are sufficient water supply concerns, it may, upon resolution, approve the implementation of Phase II and subsequent conservation phases. Said resolution shall

be made by public proclamation and shall be published at least once in a daily newspaper of general circulation and shall become effective immediately upon such publication.

### C. Phase Termination.

The Board of Water and Power Commissioners shall monitor the water supply availability to Los Angeles, and may approve, by resolution, the termination of conservation phases beyond Phase I. Phase I will remain in effect at all times.

~~—1.—At such time as the Department reports an April 1 forecast of annual Owens Valley and Mono Basin Runoff equal to or exceeding 110 percent of normal and the Metropolitan Water District officially states that the sum of its Colorado River and State Water Project supplies exceeds 100 percent of projected demand, the Mayor shall forthwith recommend to the Council the termination of any customer curtailment phase then in effect. Said recommendation to terminate shall take effect upon concurrence of the Council.~~

~~—2.—The provisions of Subsection C1 above shall not preclude the Department on the basis of information available to it from recommending to the Mayor the termination of a water conservation phase then in effect. The Mayor shall forward said recommendation to the Council and it shall take effect upon concurrence by the Council.~~

## SEC. 121.08. WATER CONSERVATION PHASES.

### A. PHASE ~~IA~~

#### Prohibited Uses Applicable To All Customers.

1. No customer of the Department shall use a water hose to~~There shall be no hose~~ wash ing of any hard or paved surfaces including, but not limited to, sidewalks, walkways, driveways, and parking areas, except that, flammable or other dangerous substances may be, if otherwise permitted by law, disposed of by direct hose flushing for the benefit of public health and safety. **(Amended by Ord. No. 166,726, Eff. 4/8/91.)** This section shall not apply to Department-approved water conserving spray cleaning devices. A simple spray nozzle does not qualify.

2. No customer of the Department shall use water ~~shall be used~~ to clean, fill or maintain levels in decorative fountains, ponds, lakes, or similar structures used for aesthetic purposes unless such water is part of a recycling-recirculating system.

3. No restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for-sale, shall serve drinking water to any person unless expressly requested.

4. No customer of the Department shall permit water to leak from any pipe or fixture facility on the customer's premises; failure or refusal to effect a timely repair of any leak of which the customer knows or has reason to know shall subject said customer to all penalties provided herein for a prohibited use of water.

5. No customer of the Department shall wash a vehicle with a hose if the hose does not have a self-closing water shut-off or device attached to it or otherwise allow a hose to run continuously while washing a vehicle.

6. No customer of the Department shall irrigate during **periods of rain** events.

~~7.5. No customer of the Department shall water or irrigate~~ lawn, landscape, or other ~~turf-vegetated~~ areas ~~shall be watered or irrigated~~ between the hours of ~~10:00-9:00~~ a.m. and ~~5:00-4:00~~ p.m. ~~from April 1 to September 30, nor between the hours of 11:00 a.m. and 3:00 p.m. from October 1 to March 31; provided however that the provisions of this subsection may be suspended at such time as the Council, by resolution, determines that the provisions hereof are no longer necessary to assist the City in achieving the necessary level of water conservation, such resolution to be effective immediately upon publication thereof;~~ provided further that commercial nurseries, ~~drip irrigation system and professional gardeners~~ holding a current City Business Tax Registration Certificate ~~and acting for or on behalf of a customer~~ shall be exempt from the provisions of this subsection. **(Amended by Ord. No. 166,726, Eff. 4/8/91.)**

8. All~~No~~ irrigating of landscape with potable water using stream rotator-type or gear-driven sprinklers shall be limited to no more than fifteen (15) minutes per watering day per station, or shall be limited to no more than ten (10) minutes per watering day per station for all other types of sprinklers. Exempt from these landscape irrigation restrictions are irrigation systems using very low-flow drip-type irrigation when no emitter produces more than two (2) gallons of water per hour.

~~9.6.~~ No customer of the Department shall water or irrigate any lawn, landscape, or other ~~turf~~-vegetated area in a manner that causes or allows excess or continuous water flow or runoff onto an adjoining sidewalk, driveway, street, gutter or ditch.

10. No installation of single pass cooling systems shall be permitted in buildings requesting new water service.

11. No installation of non-recirculating systems shall be permitted in new conveyor car wash and new commercial laundry systems.

12. Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each bathroom using clear and easily understood language. The Department shall make suitable displays available.

13. No large landscape areas, such as parks and open fields, shall have irrigation systems without rain sensors that shut off the irrigation systems.

14. ~~7.~~The prohibited uses set forth in this subsection do not apply to “Graey Water” This provision shall not be constructed to authorize the use of “Graey Water if such use is otherwise prohibited by law.

## **B. PHASE ~~B~~-II**

**1. Prohibited Uses Applicable To All Customers.** Should Phase II be implemented by the Board of Water and Power Commissioners, Phase IA of Subsection 121.08 shall continue to remain in effect.

~~2. Customer Percentage Curtailment. No customers shall make, cause, use or permit the use of water from the Department for any purpose in an amount in excess of ninety percent (90%) of the amount used during the base period as defined in this article.~~

~~2. Non-Watering Days. No landscape irrigation shall be permitted on any day other than Monday, Thursday, or Saturday.~~

**3.** These provisions do not apply to hand-held hose watering of vegetation, if the hose is equipped with a self-closing water shut-off or device, which is allowed every day during Phase II **except between the hours of 9:00 a.m. and 4:00 p.m.**

## **C. PHASE III**

**1. ~~4.~~ Prohibited Uses Applicable To All Customers.** Should the Board of Water and Power Commissioners implement Phase III, Phases ~~IA-I and II~~ of Subsection 121.08 shall continue to remain in effect.

2. Non-Watering Days. No landscape irrigation shall be permitted on any day other than Monday or Thursday.

~~2. Customer Percentage Curtailment. No customer shall make, cause, use or permit the use of water from the Department for any purpose in an amount in excess of ninety percent (90%) of the amount used during the base period as defined in this article.~~

**D. PHASE ~~III~~IV**

1. **Prohibited Uses Applicable to All Customers.** Should the Board of Water and Power Commissioners implement Phase IV, Phases ~~IA-I, II, and III~~ of Subsection 121.08 shall continue to remain in effect.

2. Non-Watering Days. No landscape irrigation shall be permitted on any day other than Monday.

3. No washing of vehicles allowed.

4. No filling of residential swimming pools and spas with potable water.

**E. PHASE IV**

1. Prohibited Uses Applicable To All Customers. Should the Board of Water and Power Commissioners implement Phase V, Phases ~~IA-I, II, III, and IV~~ of Subsection 121.08 shall continue to remain in effect.

2. Non-Watering Days. No landscape irrigation allowed.

~~2. Customer Percentage Curtailment. No customer shall make, cause, use or permit the use of water from the Department for any purpose in an amount in excess of eighty percent (80%) of the amount used during the base period as defined in this article, except that process water may be used to the extent of ninety percent (90%) of the base period.~~

**F. PHASE VI**

1. Prohibited Uses Applicable To All Customers. Phases ~~IA-I, II, III, IV, and V~~ of Subsection 121.08 shall continue to remain in effect.

~~2. Customer Percentage Curtailment. No customer shall make, cause, use or permit the use of water from the Department for any purpose in an amount in excess of seventy-five percent (75%) of the amount used during the base period as defined in this article, except that process water may be used to the extent of eight five percent (85%) of the base period. Additional Prohibited Uses - The Board of Water and Power Commissioners is hereby authorized to implement additional prohibited uses of water based on the water supply situation. Any additional prohibition shall be published at least once in a daily newspaper of general circulations and shall become effective immediately upon such publication and shall remain in effect until cancelled.~~

~~G. EXCEPTION. The prohibited uses of water provided for by Subsections A, B1, C1, D1, E,1 and and F1 of this section are not applicable to the eat uses of water necessary for public health and safety or for essential government services such as police, fire, and other similar emergency services.~~

~~H. EXEMPTIONS. Nothing contained in Subsections B2, C2, D2, E2 or F2 of this section shall be deemed to require any single-family residential customer of the Department to reduce the customer's consumption of water provided by the Department or to an amount less than nine (9) billing units per month at each meter during any billing period while Subsection B is in effect (Phase IB); or to an amount less than nine (9) billing units per month at each meter during any billing period while Subsection C is in effect (Phase II); to an amount less than eight and one-half (8 1/2) billing units per month at each meter during any billing period while Subsection D is in effect (Phase III); to an amount less than eight (8) billing units per month at each meter during any billing period while Subsection E is in effect (Phase IV); or to an amount less than seven and one-half (7 1/2) billing units per month at each meter during any billing period while Subsection F is in effect (Phase V).~~

#### ~~**SEC. 121.09. APPLICATION OF SURPLUS REDUCTION.**~~

~~— Notwithstanding any other provision of this article, any reduction in the use of water by any customer during any current billing period in excess of the amount required by Section 121.08 shall be applied as follows:~~

~~— 1. **Bi-monthly Customers:** Said surplus reduction shall be applied to that customer's consumption for the immediately preceding billing period. Any surplus reduction remaining after the application of the rule provided immediately above shall be applied to offset any excessive use of water by that customer during the next billing period for bimonthly customers. Such carry-forward of the surplus reduction shall operate only as an offset to excessive usage and shall not be~~

~~applied to any use of water at or below the customer's allowable maximum consumption thereof.~~

~~2. **Monthly Customers:** Said surplus reduction shall be applied to that customer's consumption for the immediately preceding three-month period. Any surplus reduction remaining after the application of the rule provided immediately above shall be applied to offset any excessive use of water by the customer during the next two billing periods for monthly customers. Such carry forward of the surplus reduction shall operate only as an off-set to excessive usage, and shall not be applied to any use of water in an amount at or below the customer's allowable maximum consumption thereof.~~

**SEC. 121.0910 FAILURE TO COMPLY.**

**A. Penalties. – water meters smaller than two inches (2").** It shall be unlawful for any customer of the Department to fail to comply with any of the provisions of this article. Notwithstanding any other provision of the Los Angeles Municipal Code, the penalties set forth herein shall be exclusive and not cumulative with any other provisions of this Code. The penalties for failure to comply with any of the provisions of this article shall be as follows:

1. (a) For the first violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08, the Department shall issue a written notice of the fact of such violation to the customer.

(b) For a second violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) shall be added to the customer's water bill.

(c) For a third violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) shall be added to the customer's water bill.

(d) For a fourth and any subsequent violation by a customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of ~~one hundred and fifty dollars (\$150.00)~~ three hundred dollars (\$300.00) shall be added to the customer's water bill.

~~(e)~~ (e) After a fifth or subsequent fourth violation ~~as described in Subsection (d)~~, the Department may install a flow restricting device of one gallon per minute (1 GPM) capacity for services up to one and one-half inch (1-1/2") size and comparatively sized restrictors for

larger services or terminate a customer's service, in addition to the financial surcharges provided for herein, ~~upon a prior determination that the customer has repeatedly violated this article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this article or Department rules regarding the conservation of water.~~ Such action shall be taken only after a hearing held by the Department where the customer has an opportunity to respond to the Department's information or evidence that the customer has repeatedly violated this article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this article and Department rules regarding the conservation of water.

~~Any such restricted or terminated service may be restored upon application of the customer made not less than forty-eight (48) hours after the implementation of the action restricting or terminating service and only upon a showing by the customer that the customer is ready, willing and able to comply with the provisions of this article and Department rules regarding the conservation of water. Prior to any restoration of service, the customer shall pay all Department charges for any restriction or termination of service and its restoration as provided for in the Department's rules governing water service, including but not limited to payment of all past due bills and fines.~~

~~2. For each violation of any of the provisions of Subsection B2 of Section 121.08, the Department shall issue to the customer a written notice of the fact of such violation.~~

~~3. (a) For the first violation by any customer of any of the provisions of Subsections C2, D2, E2 or F2 of Section 121.08, a surcharge in an amount equal to fifteen percent (15%) of the water bill plus an additional Three Dollars (\$3.00) for each billing unit in excess of the usage of water permitted by the particular Conservation Phase in which the violation occurred shall be added to the customer's water bill.~~

~~(b) For a second violation by any customer of any of the provisions of Subsections C2, D2, E2 or F2 of Section 121.08, a surcharge in an amount equal to twenty five percent (25%) of the water bill plus an additional three dollars three dollars (\$3.00) for each billing unit in excess of the usage of water permitted by the particular conservation phase in which the violation occurred shall be added to the customer's water bill.~~

~~—(c)— For a third violation and any subsequent violation of any of the provisions of Subsections C2, D2, E2 or F2 of Section 121.08, a surcharge in an amount equal to seventy five percent (75%) of the water bill plus an additional four dollars (\$4.00) for each billing unit in excess of the usage of water permitted by the particular conservation phase in which the violation occurred shall be added to the customer's water bill.~~

~~—(d)— After a fourth violation by a customer of any of the provisions of Subsections C2, D2, E2 or F2 of Section 121.08, the Department may impose the penalties provided for in Subsection A1(e) of Section 121.10 pursuant to the provisions and requirements set forth therein.~~

~~—(e)— The total number of all violations of any of the provisions of Subsections C2, D2, E2 or F2 of Section 121.08 occurring within the preceding twelve (12) calendar months shall determine whether Subsection 3(a), 3(b), 3(c) or 3(d) above shall apply.~~

**B. Penalties – water meters two inches (2”) and larger.** It shall be unlawful for any customer of the Department to fail to comply with any of the provisions of this article. Notwithstanding any other provision of the Los Angeles Municipal Code, the penalties set forth herein shall be exclusive and not cumulative with any other provisions of this Code. The penalties for failure to comply with any of the provisions of this article shall be as follows:

1. (a) For the first violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08, the Department shall issue a written notice of the fact of such violation to the commercial or industrial customer.

(b) For a second violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of two hundred dollars (\$200.00) shall be added to the customer's water bill.

(c) For a third violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of four hundred dollars (\$400.00) shall be added to the customer's water bill.

(d) For a fourth and any subsequent violation by a customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of six hundred dollars (\$600.00) shall be added to the customer's water bill.

(e) After a fifth or subsequent violation, the Department may install a flow restricting device or terminate a customer's service, in addition to the financial surcharges provided for herein. Such action shall be taken only after a hearing held by the Department where the customer has an opportunity to respond to the Department's information or evidence that the customer has repeatedly violated this article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this article and Department rules regarding the conservation of water.

Any such restricted or terminated service may be restored upon application of the customer made not less than forty-eight (48) hours after the implementation of the action restricting or terminating service and only upon a showing by the customer that the customer is ready, willing and able to comply with the provisions of this article and Department rules regarding the conservation of water. Prior to any restoration of service, the customer shall pay all Department charges for any restriction or termination of service and its restoration as provided for in the Department's rules governing water service, including but not limited to payment of all past due bills and fines.

**B. C. Notice.** The Department shall give notice of each violation to the customer committing such violation as follows:

1. For any violation of the provisions of Section 121.08 the Department may give written notice of the fact of such violation to the customer personally, by posting a notice at a conspicuous place on the customer's premises, or by United States mail, First Class, postage prepaid addressed to the customer's billing address.

2. If the penalty assessed is, or includes, the installation of a flow restrictor or the termination of water service to the customer, notice of the violation shall be given in the following manner:

(a) By giving written notice thereof to the customer personally; or

(b) If the customer be absent from or unavailable at either his place of residence or his ~~assumed~~ place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the United States mail, First Class postage prepaid, addressed to the customer at his place of business, residence, or such other address provided by the customer for bills for water or electric service if such can be ascertained; or

(c) If such place of residence, business or other address cannot be ascertained, or a person of suitable age or discretion at any such place cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring and also by delivering a copy to a person of suitable age and discretion there residing, or employed, if such person can be found, and also sending a copy through the United States mail, First Class, postage prepaid, addressed to the customer at the place where the property is situated as well as such other address provided by the customer for bills for water or electric service if such can be ascertained.

Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and statement informing the customer of his right to a hearing on the violation.

**DC. Hearing.** Any customer ~~against whom who disputes any a~~ penalty is levied pursuant to this section shall have a right to a ~~hearing~~ dispute determination conducted pursuant to the Department's Rules Governing Water and Electric Service. Any customer dissatisfied with the Department's dispute determination may appeal that determination within 15 days of issuance to the Board of Water and Power Commissioners, or to a designated hearing officer at the election of the Board. The provisions of Los Angeles Administrative Code, Ch. 3.1, Art. 1,2,3, §§19.24-19.39 shall apply to such appeals. All defenses, both equitable and legal, may be asserted by a customer in the appeal process. ~~All~~ appeal decisions made by the Board of Water and Power Commissioners shall be final decisions.

**ED. Reservation of Rights.** The rights of the Department hereunder shall be cumulative to any other right of the Department to discontinue service. All monies collected by the Department pursuant to any of the surcharge provisions of this article shall be deposited in the Water Revenue Fund as reimbursement for the Department's costs and expenses of administering and enforcing this article.

#### **~~SEC. 121.1011 RELIEF FROM COMPLIANCE.~~**

~~—A. Administrative Relief. Any customer who reasonably believes the application of any of the provisions of this article as the same relate to him to be unjust or inequitable, may seek relief as set forth below.~~

~~—The Department shall have the power, upon the filing by a customer of an application for relief as herein provided, to take such steps as it deems reasonable and to use such procedures as it considers necessary to resolve said application for relief prior to the submission of said application to a conservation appeal board.~~

~~—In determining whether relief shall be granted, the Department shall consider whether the denial of relief would be unjust or inequitable and shall take into consideration all relevant factors, including, but not limited to:~~

- ~~—1. Whether any additional reduction in water consumption will result in unemployment;~~
- ~~—2. Whether additional members have been added to the household;~~
- ~~—3. Whether any additional landscaped property has been combined with the customer's base year property;~~
- ~~—4. Changes in vacancy factors in multi-family housing;~~
- ~~—5. Increased number of employees in commercial, industrial, and governmental offices;~~
- ~~—6. Increased production requiring increased process water;~~
- ~~—7. Water uses during new construction;~~
- ~~—8. Adjustments to water use caused by emergency health or safety hazards;~~
- ~~—9. First filling of a permit-constructed swimming pool;~~
- ~~—10. Water use necessary for reasons related to family illness or health.~~
- ~~—11. The special needs and characteristics of hospitals, clinics and other medical care facilities.~~

~~— No relief shall be granted to any customer for any reason in the absence of a showing by the customer that the customer has achieved the maximum practical reduction in water consumption in the customer's residential, commercial, industrial, agricultural or governmental water consumption, as the case may be, other than in the specific area in which relief is being sought.~~

~~— No relief shall be granted to any customer who, when requested by the Department, fails to provide the Department with information whereby the services provided to the customer can be classified for the purpose of establishing an appropriate base or classification pursuant to the provisions of this article.~~

~~— No relief shall be granted to any customer who fails to file an application for relief within ninety (90) days of the date of the application of the provisions of this article from which the customer seeks relief.~~

~~— If a resolution of the application for relief is mutually agreed upon between the Department and the customer, the agreement and fact of concurrence therewith shall be in writing subscribed by the customer. No further appeal may be taken by the customer on the same, or substantially similar, circumstances and facts. All appeal decisions are made by the Board of Water and Power Commissioners, and all decisions~~

~~are final. The Board of Water and Power Commissioners may appoint a committee of not less than two members to conduct the appeals.~~

~~— **B. Curtailment Relief.** A customer may seek relief as herein provided from any application of the customer percentage curtailment provisions contained in Subsections C2, D2, E2 and F2 of Section 121.08 that adversely affect the customer at any time after any of such provisions are in effect. During any subsequent phase which may hereinafter be imposed, a customer may seek relief as herein provided only as to the issue of whether that customer committed the particular act or acts, or omitted to perform the particular act or acts, as alleged by the Department.~~

~~— **C. Base Adjustment.** The Department, in its discretion, may adjust the base assigned to any customer if that customer establishes, to the satisfaction of the Department, that the base, as herein provided, would cause great hardship for reasons including, but not necessarily limited to, technological improvements to that customer's premises since the base period, increased employment on said customer's business premises since the base period, a significant change in either the manner or the extent of use of water at the location in question since the base period, extreme fluctuations in weather conditions, increase in business volume directly related to water use, and occupancy factors occurring since the base period. Upon approval of an application therefor by a customer whose service is classified as a multiple family dwelling, the Department shall grant an exemption of four billing units per dwelling unit per month.~~

~~— **D. Reclassification.** The Department may reclassify any residential, commercial, industrial, or agricultural customer to any other classification upon a showing of good cause by said customer of why all customers similarly situated should be so reclassified.~~

~~— **EB. Representation.** The Department shall develop and implement procedures to allow an authorized representative of a trade, business or professional association, of which the customer is a member, to represent, with the consent of the customer, its members who are customers of the Department in any hearing held pursuant to Section 121.1009C or any proceeding held pursuant to Subsections A through D inclusive of this section.~~

~~— **F. Conservation Appeal Boards.**~~

~~— 1. There is hereby established in the City such number of residential and non-residential conservation appeal boards as is deemed necessary to effectuate the provisions of this article.~~

~~— Each non-residential conservation appeal board shall be composed of three members, one of which shall be selected from the business community, one of which shall be selected from the labor sector, and one of which shall be selected from the public at large.~~

~~—The residential conservation appeal boards shall be composed of three members selected from the public at large.~~

~~—Appeal board members shall be appointed by the Mayor and confirmed by the Council.~~

~~—The Mayor and Council shall adopt such rules and regulations as they, in their sound discretion, deem reasonable and necessary to the formation, procedure and operation of such conservation appeal boards.~~

~~—2.—A customer may apply for a hearing before a conservation appeal board to review the Department's decision affecting the customer made pursuant to this article. Said application shall automatically stay the Departmental action pending the decision of the conservation appeal board. No other or further stay shall be granted by the Department.~~

~~—(a)—The conservation appeal board's review of the Department decision shall be limited to a determination whether, considering the merits of the decision, the denial of relief would be unjust or inequitable.~~

~~—(b)—The conservation appeal board's decision shall be limited to upholding or to overturning in whole the Department's decision.~~

~~—**GC.** **Willful Misrepresentation.** Notwithstanding any other provisions of law, and in addition thereto, and not in lieu thereof, any willful misrepresentation of a material fact by any person to the Department or to any conservation appeal board established pursuant to this article, made for the purpose of securing relief from the provisions of this article for any customer, is unlawful; and a violation of this subsection shall be punishable by a fine not exceeding the sum of one thousand dollars (\$1,000), or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment.~~

## **SEC. 121.10112. GENERAL PROVISIONS.**

**A. Enforcement.** The Department of Water and Power shall enforce the provisions of this article.

**B. Department to Give Effect to Legislative Intent.** The Department shall provide water to its customers in accordance with the provisions of this article, and in a manner reasonably calculated to effectuate the intent hereof.

~~—**C.** **Reduction in Water Supplied.** If any customer fails to comply with any provision of this article, the Department may reduce the amount of water provided to that customer to the level which that customer would be using said water if he were complying with the provisions of this article. The provisions of this subsection shall be applied in lieu of, or in addition to, any other penalties provided in this article, in the~~

~~discretion of the Department, and shall be applied without regard to the status or nature of the customer.~~

**CD. Public Health and Safety Not to be Affected.** Nothing contained in this article shall be construed to require the Department to curtail the supply of water to any customer when, in the discretion of the Department ~~or a conservation appeal board,~~ such water is required by that customer to maintain an adequate level of public health and safety; provided further that a customer's use of water to wash the customer's property immediately following the aerial application of a pesticide, such as Malathion, shall not constitute a violation of this article, ~~and, provided further that the Department shall determine an adjustment to the customer's base to compensate for a reasonable amount of water used for such purpose.~~

~~E. Reports.~~

~~1. Customer Reports. All commercial and industrial customers of the Department of Water and Power using 25,000 billing units per year or more shall submit a water conservation plan to the Mayor's office. These users shall submit quarterly to the Mayor's office a report on the progress of their conservation plans.~~

~~2. City Department Reports. All City departments shall submit to the Mayor a Water Conservation Plan and a monthly public report on their water conservation efforts. The reports are to present the level of performance compared to their water conservation plans.~~

~~3. Mayoral Reports. The Mayor shall cause to be prepared and transmitted to the Council a quarterly report summarizing the customer reports required in Subsection 1 and city department monthly reports required in Subsection 2.~~

**FD. Reclaimed Water.** The provisions of this article shall not apply to the use of reclaimed water, provided that such use does not result in excess water flow or runoff onto the adjoining sidewalk, driveway, street, gutter, or ditch.

**E. Large Turf Customers.** Large turf customers such as parks and golf courses that have multiple irrigation system stations can deviate from prescribed non-watering days if their systems include weather-based irrigation controllers, and each irrigation station is limited to the number of days prescribed in this ordinance.

**G. Large Turf Water Conservation Regulations.** ~~Article IV of Chapter XII presently requires a 10 percent reduction in the amount of water used for landscape irrigation on large turf areas as defined therein and provides for surcharges for water used in violation of the requirements of said Article IV. In the event a customer becomes liable for a surcharge under both Article I and Article IV, the customer shall be required to pay only the greater amount of the surcharge.~~

**SEC. 121.43112. SEVERABILITY.**

If any section, subsection, clause or phrase in this article or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of the article or the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this article 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.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held

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Secretary