

ORDINANCE 2022-04

AN ORDINANCE OF THE BIG BEAR CITY
COMMUNITY SERVICES DISTRICT REPEALING ORDINANCE 2018-01
AND ADOPTING RULES RESTRICTING WATER USE

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE BIG BEAR CITY COMMUNITY SERVICES DISTRICT AS FOLLOWS:

SECTION 1 FINDINGS The Board of Directors (the “Board”) of the Big Bear City Community Services District (the “District”) finds as follows:

- A. The District provides water service to persons within the District; and
- B. On April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, Governor Gavin Newsom proclaimed states of emergencies that continue today and exist across all counties in California, due to extreme and expanding drought conditions; and
- C. On March 28, 2022, Governor Gavin Newsom issued an executive order that previous proclamations remain in full force and effect, except as modified by those Proclamations and herein: and
- D. State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible; and
- E. The District's potable water resources are limited and should be preserved, especially during times of declared water shortages, and therefore, the Board has determined that it is necessary to adopt a water conservation program; and
- F. The District is authorized by Water Code Section 350 et seq. to declare a water shortage emergency and by Water Code Sections 375-378 to adopt water conservation programs; and
- G. Under State law the District is authorized after declaration of a water shortage emergency to restrict the use of District water and to prohibit the waste or use of District water during such periods for any purpose other than domestic use, sanitation, fire protection or such other uses as may be determined by the District to be necessary; and
- H. The District finds and determines that the adoption of water conservation rules and regulations is necessary to (1) protect the health, safety, and welfare of the inhabitants of the District, (2) assure the maximum beneficial use of the water supplies of the District, and (3) assure that there will be sufficient water supplies to meet the basic needs of human consumption, sanitation, and fire protection; and

- I. The District finds that the specific rules, regulations, and restrictions established herein are necessary in the event of a water supply shortage.

SECTION 2 DEFINITIONS

- A. **“Aesthetic use”** means the use of water for fountains, waterfalls and landscape lakes and ponds where the use is entirely ornamental and serves no other functional purpose.
- B. **“Board”** means the Board of Directors of the District.
- C. **“Commercial and Industrial uses”** means the use of water integral to the production of primary goods and services provided by industrial or commercial facilities. Industrial facilities include facilities that perform the process-specific activities including cooling, oiler feed, cleaning and washing, pollution control, extraction, and separation of desirable material from products and waste materials and the incorporation of water into final products. Commercial facilities include, but are not limited to, food service facilities, hotels, retail facilities and nursery operations.
- D. **“Designated Days”** means a water use restriction limiting the days on which water may be used for landscape irrigation. The following system applies to determine the day within each calendar week that the use is permitted under Stage 2 restrictions:
 - 1. Residences, buildings, and premises with **even-numbered** street addresses may use water as described in this Chapter on even-numbered calendar days.
 - 2. Residences, buildings, and premises with **odd-numbered** street addresses: may use water as described in this Chapter on odd-numbered calendar days.
- E. **“District”** means the Big Bear City Community Services District.
- F. **“Domestic use”** means the use of water, other than outdoor uses, for personal needs or for household purposes, including drinking, bathing, cooling, heating, cooking, sanitation, or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.
- G. **“Drip Irrigation”** means a method of irrigation whereby water is applied directly to the base or roots of the plant without the loss of water to surrounding dirt or vegetation.
- H. **“Edible Plants and Trees”** means plants and trees that are primarily for human consumption. Examples include fruits, vegetables, berries, and herbs.
- I. **“Existing landscaping plant”** means a landscaping plant planted during any period for which a water conservation plan stage has not been declared or during a stage which, together with all preceding and succeeding stages, has been rescinded.

- J. **“Flow Restrictor”** – is a device that limits the amount of water that is available to the household.
- K. **“Handheld hose”** means a hose attended by one person.
- L. **“Health care facility”** means any hospital, clinic, nursing home or other health care or medical research facility.
- M. **“Landscape irrigation”** means the application of water to grow landscaping plants.
- N. **“Landscaping plant”** means any plant, including any tree, shrub, vine, flower, succulent, ground cover or grass species, which is used for landscaping purposes or for the support of intensive recreational areas including playgrounds and playing fields.
- O. **“Measurable Rainfall”** means rainfall greater than 0.25 of an inch.
- P. **“New landscaping plant”** means a landscaping plant planted during any water conservation plan stage. When that stage, together with all other stages which precede or succeed that stage in a continuous time period, is rescinded, the new landscaping plant will be treated thereafter as an existing landscaping plant.
- Q. **“Other outside use”** means the use of water outdoors for the maintenance, cleaning and washing of structures and mobile equipment, including automobiles and boats, and the washing of streets, driveways, sidewalks, patios, and other similar areas.
- R. **“Potable Water”** means water that is safe for drinking and food preparation.
- S. **“Reclaimed Water”** or “Reclaimed or reused Water” means any water which, as a result of the treatment of domestic wastewater, is suitable for a direct beneficial use or a controlled use that would not otherwise occur.
- T. **“SWRCB”** means the State Water Resources Control Board.
- U. **“Turf”** means any landscaped area that sustains primarily varieties of grasses.
- V. **“Waste”** means any unreasonable or non-beneficial use of water, or any unreasonable method or use of water, including, but not limited to, the specific uses prohibited and restricted by this Ordinance as hereinafter set forth. Waste includes, but is not limited to, allowing water to run off into a gutter, ditch or drain or failing to repair a controllable leak.
- W. **“Water”** means water supplied by the District.

- X. **“Water Supply Disruption”** means any Water Supply Shortage caused by an earthquake, loss of electrical power, pipeline breakage, or any other threatened or existing water shortage caused by a disaster or facility failure which results in the District's inability to meet the water demands of its customers.
- Y. **“Water Supply Shortage”** means a water shortage such that the ordinary demands and requirements of water customers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.
- Z. **“Water User”** means any person, firm, partnership, association, corporation, or political entity using water obtained from the water system of the District.

SECTION 3 MANDATORY SWRCB PROHIBITION ON WATER WASTE

- A. On January 4, 2022, the SWRCB adopted an emergency regulation, effective January 18, 2022 through January 18, 2023, unless the SWRCB modifies, readopts it or ends its before then, which prohibits the following uses of water, punishable by a fine of up to \$500 for each day in which the violation occurs:
 - (1) The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
 - (2) The use of a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
 - (3) The use of potable water for washing sidewalks, driveways, buildings, structures, patios, parking lots, or other hard surfaced areas, except in cases where health and safety are at risk;
 - (4) The use of potable water for street cleaning or construction site preparation purposes, unless no other method can be used or as needed to protect the health and safety of the public;
 - (5) The use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those decorative fountains, lakes, or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses;
 - (6) The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of one inch of rain. In determining whether measurable rainfall of at least fourth of one inch of rain occurred in a given area, enforcement may be based on records of the National Weather Service, the closest CIMIS station to the parcel, or any other reliable source of rainfall data available to the entity undertaking enforcement of this subdivision; and
 - (7) The use of potable water for irrigation of ornamental turf on public street medians. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

- B. Notwithstanding section 3(A), the use of water is not prohibited to the extent necessary to address an immediate health and safety need. This may include, but is not limited to, the use of potable water in a fountain or water feature when required to be potable because human contact is expected to occur.

SECTION 4 WATER SUPPLY PLAN FOR WATER SUPPLY SHORTAGE AND WATER SUPPLY SHORTAGE EMERGENCY

A. Stage 1 Threatened Water Shortage: Mandatory Conservation Measures

- (1) Threatened Water Shortage - The Board may, following a noticed public hearing, declare a Stage 1 Threatened Water Shortage based on the average static level of water in the West Baldwin Groundwater Sub-Basin being more than 20 feet below ground surface or such other conditions (such as duration of drought, time of year and potential for existing recharge) that have the potential to impair the District's ability to meet the water demands of its customers and that are recited in a motion, resolution or ordinance declaring a Threatened Water Shortage.
- (2) Water Supply Disruption - No public hearing shall be required in the event of a Water Supply Disruption.
- (3) Terminate Stage 1 - The Board is further authorized to terminate Stage 1 based upon an appropriate change in the water level. The order to implement and terminate a Stage 1 shall be published a minimum of one time in a newspaper of general circulation in the District
- (4) Goal. In Stage 1, the district shall impose water conservation measures that will result in a ten (10) percent reduction in overall water use to meet the SWRCB requirements.

- B. Stage 1 Restrictions - The following restrictions and prohibitions on water use shall be imposed and complied with by the District Water Users during Stage 1 to promote these water savings goals. During Stage I the District may impose any or all the following restrictions or conditions on the use of water, as the circumstances may require and include all SWRCB prohibitions on water waste.

(1) Landscape Irrigation

- a. Landscape watering between 9:00 a.m. and 6:00 p.m. is prohibited. This prohibition extends to all nurseries, golf courses, and public facilities.

1. This prohibition shall not extend to facilities using subsurface or drip irrigation.

- b. Landscape irrigation is prohibited between November 1 and April 1 of each year.

1. This prohibition shall not extend to edible plants and trees.

- (2) Other Outdoor uses
 - a. Waste is prohibited.
 - b. Voluntary reduction of water use in commercial and industrial processes is recommended.
 - c. All new commercial car, airplane, and boat washes shall be constructed with recycling water systems.
- (3) Domestic use
 - a. Voluntary reduction for indoor domestic use is recommended by any means available.
- (4) Essential and utility uses.
 - a. Firefighting - No restrictions.
 - b. Medical use by health care facilities - No restrictions

C. Stage 2 Water Shortage Alert: Mandatory Conservation Measures

- (1) Water Shortage Alert - The Board may, following a noticed public hearing, declare a Stage 2 Water Shortage Alert based on the average static level of water in the West Baldwin Groundwater Sub-Basin being more than 27 feet below ground surface or such other conditions (such as duration of drought, time of year and potential for existing recharge) that have the potential to impair the District's ability to meet water demands of its customers and that are recited in a motion, resolution or ordinance declaring a Water Shortage Alert.
- (2) Water Supply Disruption - No public hearing shall be required in the event of a Water Supply Disruption.
- (3) Terminate Stage 2 - The Board is further authorized to terminate Stage 2 based upon an appropriate change in the water level. The order to implement and terminate a Stage 2 shall be published a minimum of one time in a newspaper of general circulation in the District.
- (4) Goal. In Stage 2, the District shall impose water conservation measures that will result in a ten to twenty-five (10-25) percent reduction in overall water use to meet the SWRCB requirements.

D. Stage 2 Restrictions – During Stage 2, the following restrictions and prohibitions on water uses shall be imposed on and complied with by all Water Users and are in addition to, and include, SWRCB prohibitions on water waste and all water uses restricted or prohibited in Stage 1:

- (1) The District recommends that all existing customers with landscaping presently in place reduce their Turf area and/or replace it with low water use plants and drip irrigation, or native plants that need little or no watering.
- (2) Any Water User installing new landscaping shall not install turf in excess of twenty-five (25) percent of the available landscape area and shall not install more than one thousand (1000) square feet of Turf and shall use low water use plants. Drip irrigation is highly recommended for use in new landscaping projects.
- (3) Water users may irrigate on Designated Odd/Even Days only, before 9:00 a.m. and after 6:00 p.m., based on the property address.

E. Stage 3 Water Shortage Warning: Mandatory Conservation Measures

- (1) Water Shortage Warning - The Board may, following a noticed public hearing, declare a Stage 3 Water Shortage Warning based on the average static level of water in the West Baldwin Groundwater Sub-Basin being more than 35 feet below ground surface or such other conditions (such as duration of drought, time of year and potential for existing recharge) which have the potential to impair the District's ability to meet water demands of its customers and that are recited in a motion, resolution or ordinance declaring a Water Shortage Warning.
- (2) Water Supply Disruption - No public hearing shall be required in the event of a Water Supply Disruption.
- (3) Terminate Stage 3 - The Board is further authorized to terminate Stage 3 based upon an appropriate change in the water level. The order to implement and terminate a Stage 3 shall be published a minimum of one time in a newspaper of general circulation in the District.
- (4) Goal. In Stage 3, the District shall impose water conservation measures that will result in a twenty-five to thirty-five (25-35) percent reduction in overall water use to meet the SWRCB requirements.

F. Stage 3 Restrictions – In addition to the mandatory requirements set forth SWRCB mandatory prohibitions of water waste and in Stages 1 and 2, with the exception of the designated odd/even watering days, during Stage 3, the following restriction shall be imposed on and complied with by all Water Users:

- (1) Landscape irrigation is only permitted on Wednesday and Saturday before 9:00 a.m. and after 6:00 p.m.
- (2) No residences shall use more than one hundred (100) gallons per day. This amount may, upon the petition to the District, be increased by fifty (50) gallons per day per person for residences which the District determines based on the facts set forth in petition have more than two (2) persons living full-time in a single residence.

- (3) Mandatory water rationing levels shall be determined for commercial establishments by the District's General Manager on a case-by-case basis. Once such a determination is made, commercial establishments shall not exceed use limitations so established.
- (4) All Water Users shall reduce turf to twenty-five (25) percent of the available landscape area which shall not exceed more than one thousand (1,000) square feet of Turf on a parcel or lot.
- (5) No Water User shall install any new landscaping.
- (6) Any Water User who exceeds the one hundred (100) gallons per day per residence limitation, as adjusted for additional residence members, or the commercial water usage limitation as determined by the General Manager, shall pay a water surcharge equal to twice the amount of the Water User's entire water bill at standard rates.
- (7) No water shall be used for private construction purposes, including water used for dust control or compaction. Use of reclaimed or reused water is exempt from this reduction measure.

G. Stage 4 Water Supply Shortage Emergency: Mandatory Conservation Measures

- (1) Water Supply Shortage Emergency - The Board may, following a noticed public hearing, declare a Stage 4 Water Supply Shortage Emergency based on the average static level of water in the West Baldwin Groundwater Sub-Basin being more than 50 feet below ground surface or such other conditions (such as duration of drought, time of year and potential for existing recharge) which have the potential to impair the District's ability to meet water demands of its customers and that are recited in a motion, resolution or ordinance declaring a Water Supply Shortage Emergency.
- (2) Water Supply Disruption - No public hearing shall be required in the event of a Water Supply Disruption.
- (3) Terminate Stage 4 - The Board is further authorized to terminate Stage 4 based upon an appropriate change in the water level. The order to implement and terminate a Stage 4 shall be published a minimum of one time in a newspaper of general circulation in the District.
- (4) Goal. In Stage 4, the District shall impose water conservation measures that will result in a thirty-five to fifty (35-50) percent reduction in overall water use to meet the SWRCB requirements.

H. Stage 4 Restrictions – When Stage 4 is declared, the following restrictions and prohibitions shall be imposed and complied with. Such restrictions are in addition to all restrictions imposed by the SWRCB mandatory prohibitions of water waste and in Stage 1, Stage 2, and Stage 3.

- (1) No Water User may irrigate Turf.
- (2) No Water User may irrigate trees and shrubs except by drip irrigation or hand-watering with a hose fitted with an automatic shut-off nozzle.
- (3) No new landscaping plants shall be installed, except such landscaping plants as are required for erosion control by the County Building and Safety Department.
- (4) In addition to the surcharge charged under Stage 3, the District also may install a flow restrictor on property where a Water User is wasting water and/or shut-off water service for those water users who repeatedly exceed the District's mandatory water use limitation of 100 gallons per day per residence, as adjusted for additional residence members. The provisions for a shut-off of water service are defined in Ordinance No. 75.
- (5) All washing of cars, airplanes, and boats or any other vehicles is prohibited. This prohibition does not include washing by a commercial establishment that uses solely reclaimed water to wash the vehicles.
- (6) In industrial, commercial, and other uses, additional restrictions may be imposed if conditions warrant.
- (7) Non-essential fire-related training and non-essential fire-flow testing shall be limited.

I. Stage 5 Catastrophic Water Supply Shortage Emergency: Mandatory Conservation Measures

- (1) Catastrophic Water Supply Shortage Emergency - The Board may, following a noticed public hearing, declare a Stage 5 Catastrophic Water Supply Shortage Emergency based on the average static level of water in the West Baldwin Groundwater Sub-Basin being more than 75 feet below ground surface or such other conditions (such as duration of drought, time of year and potential for existing recharge) which have the potential to impair the District's ability to meet water demands of its customers and that are recited in a motion, resolution or ordinance declaring a Catastrophic Water Supply Shortage Emergency.
- (2) Water Supply Disruption - No public hearing shall be required in the event of a Water Supply Disruption.
- (3) Terminate Stage 5 - The Board is further authorized to terminate Stage 5 based upon an appropriate change in the water level. The order to implement and terminate a Stage 5 shall be published a minimum of one time in a newspaper of general circulation in the District.

(4) Goal. In Stage 5, the District shall impose water conservation measures that will result in a greater than fifty (>50) percent reduction in overall water use to meet the SWRCB requirements.

J. Stage 5 Restrictions – When Stage 5 is declared, the following restrictions and prohibitions shall be imposed and complied with. Such restrictions are in addition to all restrictions imposed by the SWRCB mandatory prohibitions of water waste and in Stage 1, Stage 2, Stage 3, and Stage 4.

(1) No water shall be used other than from human consumption and for health needs.

SECTION 5 IMPLEMENTATION AND TERMINATION OF MANDATORY COMPLIANCE STAGES

- A. The District shall monitor the supply and demand for water regularly to determine the level of conservation required by the implementation or termination of each stage.
- B. Each declaration of the Board implementing or terminating a water conservation stage shall be published at least once in a newspaper of general circulation and shall remain in effect until the Board so otherwise declares.
- C. The General Manager is empowered to implement measures contained in this ordinance. The General Manager may impose a total ban upon water use for aesthetic and/or landscape irrigation for no more than two consecutive days. Notice of the ban shall be posted on the District’s website, posted at the District’s main office, advertised on the local radio station, and advertised in the local newspaper at least three (3) weeks prior to the effective dates of the ban. Any customer may appeal the General Manager’s ban as it is related to the customer’s property to the Board of Directors at its next regularly scheduled meeting.
- D. In the event of a Water Supply Disruption which prevents the Board from holding a timely meeting, the General Manager may act for the Board on a temporary basis under this Ordinance. Any action of the General Manager under this Section D shall expire at the next meeting of the Board, unless extended by the Board at such meeting.

SECTION 6 EXCEPTIONS

A. Application for Exception Permit – The District may grant permits for uses of water otherwise prohibited under this Ordinance if it finds and determines that special circumstances make compliance impossible or that restrictions herein would either:

(1) Cause an unnecessary and undue hardship to the Water User or the public; or

- (2) Cause an emergency condition affecting the health, sanitation, fire protection or safety of the Water User or the public.
- B. Such exceptions may be granted only upon application, therefore. Upon granting any such exception permit, the District may impose any conditions it determines to be just and proper.
- C. The District may also grant a one-time exception per year, in Stage 1 and Stage 2, in the following circumstances:
 - (1) Use of water to establish native planes or xeriscape.
 - (2) Use of water blasting as preparation for house painting.
 - (3) Use of water to prepare for driveway sealing.
- D. The District may also grant an exemption for landscape outdoor watering in the following circumstances:
 - (1) Use of water with a handheld hose or container during abnormally dry periods from November 1 to April 1 as determined by the General Manager.
 - (2) If measurable rain is received, exceptions under this sub-section are voided.

SECTION 7 RESERVATION OF RIGHTS

The rights of the District hereunder shall be cumulative to any other right of the District to discontinue service. All monies collected by the District pursuant to any of the penalty provisions of this Ordinance shall be deposited in the Water Operating Fund as reimbursement for the District's costs and expenses of administering and enforcing this Ordinance.

SECTION 8 VIOLATIONS – A MISDEMEANOR

Failure to comply with the provisions of this Ordinance shall constitute a misdemeanor punishable under Water Code Section 377.

A person who knowingly or intentionally violates or causes the violation of any restriction or prohibition on the use of water or related activities contained in any stage of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine as follows:

- 1. First Offense: Warning - door tag and documented to property account
- 2. Second Offense: Fifty dollars (\$50.00)
- 3. Third Offense: One hundred dollars (\$100)
- 4. Fourth Offense: Two hundred fifty dollars (\$250)
- 5. Fifth & Subsequent Offenses: Five hundred dollars (\$500) for each day in which the violation occurs and/or imprisonment in the county jail for not more than thirty (30) days.

In addition to the provisions of this section, the District reserves the right to take such civil enforcement action or other action as may be available or appropriate to compel compliance with the provisions of this Ordinance, such as installing a flow restriction device at the meter.

SECTION 9 REPEAL OF ORDINANCE 2018-01

Ordinance 2018-01 is hereby repealed.

SECTION 10 EFFECTIVE DATE

This Ordinance shall become effective upon adoption and shall remain in effect until repealed. Within ten (10) days after its adoption, the Ordinance shall be published pursuant to Government Code section 6061 in a newspaper of general circulation in the District.

SECTION 11 SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance.

PASSED, APPROVED, and ADOPTED by the Big Bear City Community Services District Board of Directors at its regular meeting held the 1st day of August, 2022, by the following vote:

AYES:	DIRECTORS:
NOES:	DIRECTORS:
ABSENT:	DIRECTORS:
ABSTAINS:	DIRECTORS:

Larry Walsh, President
of the Board of Directors

ATTEST:

Morgan Szabad, Secretary
of the Board of Directors