

ORDINANCE 100-2021

MANDATORY WATER RATIONING PROGRAM

WHEREAS, Regulation 117 of the Rules and Regulations of the Inverness Public Utility District Water System sets forth guidelines and procedures for declaration of a Water Shortage Emergency and for conservation of the water supply during a duly declared Water Shortage Emergency; and

WHEREAS, paragraph (f)(3) of Regulation 117 provides for implementation of mandatory water rationing at such time during a duly declared Water Shortage Emergency that the Board of Directors of the Inverness Public Utility District determines that it is necessary to conserve a greater portion of the public water supply than is achieved by implementing water conservation Stage 2 of Regulation 117; and

WHEREAS, the Board of Directors of the Inverness Public Utility District desires to define procedures for implementing and enforcing a program of mandatory water rationing,

NOW, THEREFORE, BE IT ENACTED by the Board of Directors of the Inverness Public Utility District that the following shall constitute the District's Mandatory Water Rationing Program.

SECTION 1. PURPOSE OF THIS ORDINANCE AND OF A MANDATORY WATER RATIONING PROGRAM. The purpose of this ordinance is to conserve the District's water supply for the greatest public benefit, with particular regard to public health and sanitation, fire protection, domestic use, and preservation of the ecological health of the community and the District's watershed, by reducing wasteful uses of water and allocating the available water supply fairly and equitably. This ordinance is adopted pursuant to California Water Code Sections 350 through 358 and Sections 375 through 378.

SECTION 2. EFFECTIVENESS. Implementation of a mandatory water rationing program pursuant to the provisions of this ordinance shall become effective on any date set therefore by the Board of Directors of the Inverness Public Utility District in a resolution, called the "rationing activation resolution," adopted by said Board of Directors during a duly declared Water Shortage Emergency, which resolution finds it necessary to implement water conservation Stage 3 of Water System Regulation 117 within the service area of the Inverness Public Utility District Water System. The applicable provisions of water conservation Stage 2 shall remain in effect until Stage 3 is duly cancelled by action of the Board of Directors. During a duly declared Water Shortage Emergency, the Board of Directors shall consider adoption of a rationing activation resolution to implement water conservation Stage 3 when advised by the District's General Manager that the water supply, water production, or capability to treat, store, or distribute water can no longer be maintained at a level adequate to service the existing demands and requirements of the System's customers without endangering maintenance of adequate reserves for fire protection, sanitary use, and preservation of the ecological health of the community and the District's watershed. A rationing activation resolution shall specify the optional provisions of this Ordinance's mandatory water rationing program that shall be placed in effect. The mandatory water rationing program that is placed in effect shall be legally binding on all customers of the Inverness Public Utility District Water System and of all users of System-provided water. It shall be unlawful for any customer or user to use, or cause or permit to be used, System-provided water in excess of the water allotment assigned to the service at which the excess usage occurs.

SECTION 3. RESIDENTIAL SERVICE WATER ALLOTMENT. The Board of Directors shall determine and specify in the "rationing activation resolution" the water allotment "track" that is to be placed in

effect for residential services. A service's designation as a residential service shall be determined by the rate schedule applicable to the service.

Under Track 1, each residential service's usage allotment shall be set at a specified number of gallons per day (the allotment will be the same for all residential service connections).

Under Track 2, each residential service's usage allotment shall be set at a specified number of gallons per day per fulltime resident on the premises.

Under Track 3, each residential service's usage allotment shall be set at a specified ratio of the average amount of water used at the service over the preceding year.

Under Track 4, each residential service's usage allotment shall be set at a specified number of gallons per day per fulltime resident on the premises, such number of gallons to be determined in accordance with an occupancy schedule.

Under Track 5 (a combination of Track 1 and Track 2), each residential service's usage allotment shall be set at a specified number of gallons per day (this base allotment will be the same for all residential service connections) plus a specified number of gallons per day per fulltime resident on the premises.

(a) TRACK 1: Uniform allocation

The Board of Directors shall determine and specify in the rationing activation resolution the number of gallons per day to be allocated to each residential service. At any time, the General Manager may reduce this allocation temporarily by up to 25% on an emergency basis if the General Manager determines that such reduction is necessary to protect the public health, safety, and welfare or to spread more equitably the availability of water among the classes of users; any such temporary reduction must be approved by the Board of Directors at its next duly noticed meeting in order to remain in effect. The Board of Directors may, at any time, adjust or modify by Resolution the number of gallons per day to be allocated to each residential service.

(b) TRACK 2: Per-person allocation

The Board of Directors shall determine and specify in the rationing activation resolution the number of gallons per day to be allocated for each reported fulltime occupant of a residential service, as well as a default per-connection allocation for residential services for which no fulltime occupants have been reported. At any time, the General Manager may reduce temporarily these allocations by up to 25% on an emergency basis if the General Manager determines that such reductions are necessary to protect the public health, safety, and welfare or to spread more equitably the availability of water among the classes of users; any such temporary reductions must be approved by the Board of Directors at its next duly noticed meeting in order to remain in effect. The Board of Directors may, at any time, adjust or modify by Resolution the number of gallons per day to be allocated for each reported fulltime occupant of a residential service, as well as a default per-connection allocation for residential services for which no fulltime occupants have been reported.

(c) TRACK 3: Ratio-based allocation

The Board of Directors shall determine and specify in the rationing activation resolution the ratio (percentage) of preceding-year average daily usage to be allocated uniformly to each service. As necessary, the General Manager may utilize any appropriately applicable period other than the preceding year to determine a service's average daily usage. The Board of Directors may establish a schedule of varying ratios together with triggers for implementing the various ratio levels. At any time, the General Manager may reduce temporarily the allocation that is currently in effect by up to 25% on an emergency basis if the General

Manager determines that such a reduction is necessary to protect the public health, safety, and welfare; any such temporary reduction must be approved by the Board of Directors at its next duly noticed meeting in order to remain in effect. The Board of Directors may, at any time, adjust or modify by Resolution the ratio (percentage) of preceding-year average daily usage to be allocated uniformly to each service or the schedule of varying ratios and the triggers for implementing the various ratio levels.

(d) TRACK 4: Occupancy-adjusted per-person allocation

The Board of Directors shall determine and specify in the rationing activation resolution a schedule of fulltime residential occupancy levels and for each occupancy level the number of gallons per day to be allocated for each fulltime occupant, as well as a default daily allocation for each residential service for which no fulltime occupants have been reported. At any time, the General Manager may reduce these allocations temporarily by up to 25% on an emergency basis if the General Manager determines that such reductions are necessary to protect the public health, safety, and welfare or to spread more equitably the availability of water among the classes of users; any such temporary reductions must be approved by the Board of Directors at its next duly noticed meeting in order to remain in effect. The Board of Directors may, at any time, adjust or modify by Resolution the schedule of fulltime residential occupancy levels and for each occupancy level the number of gallons per day to be allocated for each fulltime occupant, as well as the default daily allocation for each residential service for which no full-time occupants have been reported.

(e) TRACK 5: Uniform allocation plus per-person allocation

The Board of Directors shall determine and specify in the rationing activation resolution the number of gallons that will constitute the base number of gallons per day to be allocated uniformly to every residential service plus the number of gallons per day to be allocated for each reported fulltime occupant of a residential service. At any time, the General Manager may reduce these allocations temporarily by up to 25% on an emergency basis if the General Manager determines that such reductions are necessary to protect the public health, safety, and welfare or to spread more equitably the availability of water among the classes of users; any such temporary reductions must be approved by the Board of Directors at its next duly noticed meeting in order to remain in effect. The Board of Directors may, at any time, adjust or modify by Resolution the number of gallons that constitute the base number of gallons per day allocated uniformly to every residential service and the number of gallons per day allocated for each reported fulltime occupant of a residential service.

SECTION 4. NON-RESIDENTIAL SERVICE WATER ALLOTMENT. The Board of Directors shall determine and specify in the “rationing activation resolution” the ratio (percentage) of preceding-year average daily usage to be allocated uniformly to each non-residential service. A service’s designation as a non-residential service shall be determined by the rate schedule applicable to the service. As necessary, the General Manager may utilize any appropriately applicable period other than the preceding year to determine a service’s average daily usage. The Board of Directors may establish a schedule of varying ratios together with triggers for implementing the various ratio levels. At any time, the General Manager may reduce temporarily the allocation that is in effect by up to 25% on an emergency basis if the General Manager determines that such a reduction is necessary to protect the public health, safety, and welfare; any such temporary reduction must be approved by the Board of Directors at its next duly noticed meeting in order to remain in effect. The Board of Directors may, at any time, adjust or modify by Resolution the ratio (percentage) of preceding-year average daily usage to be allocated uniformly to each non-residential service.

SECTION 5. DETERMINATION OF INDIVIDUAL CUSTOMER WATER ALLOTMENTS. The General Manager shall, as necessary, take appropriate measures to determine each service's daily water allotment and shall communicate in timely manner to the customer of record for each service connection that service's daily allotment. In the event a track is used that bases daily water allotments on a per-person basis, the General Manager shall devise and implement a program to conduct a census of the occupancy of each residential property. If a customer of record for a residential service fails to respond to a census inquiry, that customer's served residence shall be presumed to have no fulltime residents.

SECTION 6. DETERMINATION OF A FULLTIME RESIDENT. For purposes of implementing any provisions of this ordinance, a fulltime resident is a human being who is domiciled overnight on the property for more than 30 consecutive nights or more than 30 nights within a 60-day period; residency can be demonstrated by the address listed on a driver license, voter registration card, property tax bill with homeowner property tax exemption, lease agreement, income tax return, utility bill, local school enrollment, parental, custodial, or caregiver relationship to an adult who demonstrates full-time residency, or other means satisfactory to the General Manager.

SECTION 7. ALLOTMENT PERIOD, ALLOTMENT BANKING, ALLOTMENT TRANSFER, USAGE NOTIFICATION. For purposes of enforcement of this ordinance, each customer's total allotment and total usage shall be computed for each of the System's bimonthly billing periods (as defined in paragraph (c) of Water System Regulation 301). Each customer's total allotment for a billing period shall be determined by multiplying the service's applicable daily allotment by the number of days in the billing period. No unused portion of a customer's allotment in a billing period may be applied to a subsequent billing period (carryover shall not be allowed; any unused allotment shall expire at the time the meter is read for the applicable billing period), nor may any portion of a service connection's allotment be transferred to any other service connection. The General Manager shall devise and implement a program to notify each customer of record of the average daily water usage at the served property at regular intervals during each billing period during which water rationing is in effect.

SECTION 8. HARDSHIP. On request, the General Manager may increase a service connection's daily water allocation upon making a finding that enforcement of the service's existing allocation would (a) cause or result in a severe hardship to the customer or to any of the service location's fulltime residents (excluding economic hardship); (b) be detrimental to the public interest; or (c) cause or result in an emergency condition affecting the health, sanitation, fire protection, or safety of the customer, the residents, or the public. In the event an application for an increase in a service connection's daily water allocation is denied by the General Manager or is not acted upon by the General Manager within ten (10) working days, the applicant may within ten (10) working days file in writing an appeal to the Board of Directors, which body shall conduct a hearing on the appeal at its next duly noticed meeting that is no fewer than seven (7) days subsequent to the date the appeal is received in the District office; the decision on an appeal by the Board of Directors shall be final and binding.

SECTION 9. ENFORCEMENT. At the conclusion of each bimonthly billing period, the General Manager shall determine the customers-of-record whose service location used an amount of water during the billing period that exceeded the total allocation that had been established for the service for the billing period.

- (a) Excess usage not in excess of 10% of allocation. The General Manager shall issue a written warning to each customer that had excess usage but whose excess usage did not exceed ten percent (10%) of the allocation that had been established for the service for the billing period.

- (b) Excess usage in excess of 10% of allocation. The General Manager shall notify in writing each customer that had excess usage and whose excess usage exceeded ten percent (10%) of the allocation that had been established for the service for the billing period and shall inform the customer that an administrative fine is being applied to the customer's water account.
- (c) Administrative Fine. The administrative fine that is assessed shall be fifty dollars (\$50.00) for each unit of one hundred (100) cubic feet (ccf), or fraction thereof, of the customer's usage during the billing period that was in excess of the allocation that had been established for the service for the billing period.
- (d) Repetition of Excess Usage. The second time during the same Water Shortage Emergency that a customer's usage during a billing period exceeds by more than ten percent (10%) the allocation that had been established for the service for the billing period, the administrative fine that is assessed shall be one-hundred dollars (\$100.00) per unit of one hundred (100) cubic feet (ccf), or fraction thereof, of the customer's usage during the billing period that was in excess of the allocation that had been established for the service for the billing period. The third time during the same Water Shortage Emergency that a customer's usage during a billing period exceeds by more than ten percent (10%) the allocation that had been established for the service for the billing period, the administrative fine that is assessed shall be two-hundred dollars (\$200.00) per unit of one hundred (100) cubic feet (ccf), or fraction thereof, of the customer's usage during the billing period that was in excess of the allocation that had been established for the service for the billing period.
- (e) Appeal of an Administrative Fine. Within ten (10) working days of being notified that an administrative fine has been assessed, the customer of record for the service account to which the administrative fine has been posted may file in writing an appeal to the Board of Directors of the assessment of the administrative fine. The Board of Directors shall conduct a hearing on the appeal at its next duly noticed meeting that is no fewer than seven (7) days subsequent to the date the appeal is received in the District office; the decision on an appeal by the Board of Directors shall be final and binding
- (f) Chronic Excess Usage. The fourth time during the same Water Shortage Emergency that a customer's usage during a billing period exceeds by more than ten percent (10%) the allocation that had been established for the service for the billing period, the General Manager shall notify the Board of Directors and shall place on the agenda for the next duly noticed meeting of the Board of Directors for which an agenda has not yet been posted a public hearing to consider restricting or discontinuing water service to the property at which the chronic excess usage has occurred, and shall notify the customer of record for said property of the impending hearing at which the Board of Directors may take action to restrict or discontinue water service to the customer's property. The Board of Directors at such public hearing may, in its sole discretion, based on testimony received and findings of fact, place such restrictions on water service to the affected property as it deems in its sole discretion to be necessary to protect the public water supply, including but not limited to directing Water System staff to place a flow restricting device on the service's water meter or to discontinue water service to the property, pursuant to Section 356 of the Water Code of the State of California. The Board may set a period of time during which a flow restriction device will be in place or a period of time during which service will be discontinued, but no such restriction or service discontinuance shall remain in effect past the date on which the declared Water Shortage Emergency is declared ended by the Board of Directors, except that any service restriction or discontinuance that is in effect shall remain in effect as long as any currently unpaid rates, charges, or fines assessed to the water service account remain unpaid.

SECTION 10. TAMPERING. It shall be unlawful for anyone to draw, or permit to be drawn, any water through a service meter to which service has been discontinued pursuant to Section 9(e) of this ordinance. It shall be unlawful for anyone to engage in an attempt to remove, adjust, modify, bypass, or otherwise tamper with a flow restriction device installed on a meter pursuant to Section 9(e) of this ordinance. Pursuant to Section 356 of the Water Code of the State of California, a violation of this section shall constitute grounds for the District to initiate proceedings to remove the subject water meter, cap the service lateral from the District's water main, and officially declare the subject property as not served by the Inverness Public Utility District Water System.

SECTION 11. APPLICABILITY. The provisions of this ordinance shall be in effect and applicable only while a duly declared mandatory water rationing program is in effect during a duly declared water shortage emergency. No provisions of this ordinance shall have any effect or applicability once a resolution cancelling water rationing or a resolution declaring an end to a declared water shortage emergency has been adopted by the Board of Directors or at any other time during which no duly activated mandatory water rationing program or duly declared water shortage emergency is in effect.

SECTION 12. SEVERABILITY. If any section, subsection, paragraph, sentence, clause, phrase, or provision of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have adopted the ordinance and each section, subsection, paragraph, sentence, clause, phrase, and provision thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or provisions be declared invalid.

SECTION 13. This Ordinance shall be and hereby is declared to be in full force and effect as of thirty (30) days from and after the date of its adoption. The Clerk of the Board shall cause this Ordinance to be published in a newspaper of general circulation in the District at least one (1) week before the expiration of said thirty (30) days and shall also cause copies of this Ordinance to be posted in at least three (3) public places in the District for the said thirty (30) days, and said publication and said posted copies shall show the names of the Directors voting for and against adoption of this Ordinance.

PASSED AND ADOPTED at a special meeting of the Board of Directors of the Inverness Public Utility District on the 3rd day of June, 2021, by the following vote, to wit:

AYES: **Directors**

NOES:

ABSTAINING:

ABSENT:

Kenneth J. Emanuels, President

ATTEST:

Shelley Redding, Clerk of the Board

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I hereby certify that the foregoing instrument is a true and correct copy of the original of Ordinance 100-2021 on record in this office, and that subsequent to its adoption no provision of Ordinance 100-2021 has been amended, modified, or revoked by the governing body.

Clerk of the Board, Inverness Public Utility District, County of Marin, State of California.

By _____ Date _____

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