

**ORDINANCE NO. 80
DESERT WATER AGENCY**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF DESERT WATER AGENCY
PROHIBITING POTABLE WATER FROM BEING USED TO
IRRIGATE AREAS OF NON-FUNCTIONAL TURF**

WHEREAS, Desert Water Agency (“Agency”) produces the majority of its potable water from wells located within its service area; and

WHEREAS, pursuant to Section 15 (13) and (14) of the Desert Water Agency Law and Water Code Sections 350-375, the Agency is authorized to adopt and empowered to enact and enforce restrictions on water use and water conservation programs to conserve its water supplies and prevent water waste; and

WHEREAS, the Agency has long recognized the importance of water conservation due to the State of California’s frequent drought conditions, continued demand for water, unpredictable weather, and local desert climate precipitation rates; and

WHEREAS, California Assembly Bill 1572 (AB 1572), signed into law on October 13, 2023, prohibits the use of Potable Water to irrigate Non-Functional Turf at all times on certain properties, and requires the Agency to update its regulations to enforce the State-mandated prohibitions; and

WHEREAS, in 2024, the State Water Resources Control Board adopted water conservation regulations as part of the “Making Conservation as a Way of Life” legislation, and the Agency recognizes and is committed to Urban Water Use Objectives (UWUO) in compliance with standards for long-term urban water use efficiency; and

WHEREAS, the Agency is committed to the responsible management of potable water and promoting the goals of Sustainable Groundwater Management Act (SGMA), by managing local water supplies, and by decreasing the unnecessary pumping of precious groundwater resources for the use in wasteful applications.

NOW, THEREFORE, be it ordained by the Board of Directors of Desert Water Agency as follows:

Section 1. Definitions

For the purposes of this Ordinance, the following definitions shall apply:

- 1. AB 1572:** Assembly Bill 1572, Friedman. Potable Water: Non-Functional Turf. The legislation that prohibits the watering of Non-Functional Turf for certain customer classes and requires water suppliers to implement regulations, ordinances, or policies supporting the prohibition.
- 2. Affected Water Customer:** Customers identified in Section 2(B) of this Ordinance.
- 3. Agency:** Means Desert Water Agency.
- 4. Apartment Complex:** A multi-unit residential property of ten (10) or more units that are designed, built or rented for occupation, as a home.
- 5. Commercial Properties:** Application of business, such as a hotel, restaurant, or office building, that utilizes water. These facilities are generally categorized within, but not limited to, construction, retail/wholesale trade, transportation, information, professional activities and other similar entities.
- 6. Common Area:** Portion of a Common Interest Development or of a property owned or managed by a Homeowners' Association or a Community Service Organization or similar entity that is not assigned or allocated to the exclusive use of the occupants of an individual dwelling unit within the property.
- 7. Common Interest Development:** As per Section 4100 of the Civil Code: means a community apartment project, condominium project, planned development, or stock cooperative.
- 8. Community Service Organization:** As per Section 4110 of the Civil Code or successor section as revised.
- 9. Department of General Services:** A department in the State of California, set forth in the California government code, that is responsible for providing a variety of services to state agencies through procurement and acquisition solutions: real estate management and design, administrative hearings, legal services, building standards, oversight of structural safety and other related services.
- 10. Domestic Water:** Water supplied by a water supplier to domestic customers, and used for purposes including indoor activities such as drinking, cooking, and bathing, as well as outdoor uses such as landscape irrigation and lawn watering.
- 11. Functional Turf:** Existing turf grass areas that have a clear, dedicated function, are used regularly, provide a recreational benefit to the community/property, are an essential part of a commercial service or operation, provide reasonable spacing and safe access, have a history of

programmed events past, present, and future, or they are future turf installations planned for a property which meet the requirements of Functional Turf.

12. Government Property: A Water User that is a government agency owning or operating a property, which is a permanent or semi-permanent organization within a state and local government responsible for overseeing or administering specific functions. These agencies are often created by legislation or executive powers and are tasked with implementing and managing laws and policies.

13. Homeowners Association (HOA): As per Section 4080 of the Civil Code: “Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a Common Interest Development.

14. Industrial Property: As per the North American Industry Classification System code sectors 31 to 33, means a Water User that is primarily a manufacturer or processor of materials, and/or an entity that is a Water User primarily engaged in research and development.

15. Institutional Property: Means a Water User dedicated to public service. This type of user includes, but is not limited to, higher education institutions, schools, courts, churches, hospitals, and nonprofit research institutions.

16. Irrigation: The process of watering plants, lawns, and/or landscapes.

17. Local Public Agency: May be a city, county or other governmental entity, or a separate body such as a redevelopment agency or a local housing authority.

18. Making Conservation a California Way of Life: Is a regulatory framework for managing urban water use in California. It requires urban retail water suppliers to annually calculate and comply with an Urban Water Use Objective; carry out Commercial, Industrial, and Institutional (CII) performance measures; and provide progress reports.

19. Non-Functional Turf: Turf areas that **do not** meet the required conditions and criteria, as identified in the Functional Turf definition within this Ordinance.

20. Potable Water: Water that is suitable for human consumption.

21. Public Water System: A system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily, at least 60 days out of the year.

22. Recreational Use Area: Means an area designated by a water customer or a governmental agency to accommodate human foot traffic for recreation, including, but not limited to, sports fields, golf courses, playgrounds, picnic grounds, or designated pet areas.

23. Recycled Water: Wastewater that has undergone treatment and is not safe for human consumption but is suitable for non-potable applications such as landscape and agricultural irrigation.

24. Regional Public Agency: An organization, often a state or local agency, that operates across multiple counties or municipalities, addressing issues that transcend local boundaries. These agencies are established to handle regional needs like transportation, resource management, and economic development.

25. State Water Resources Control Board (SWRCB): The State of California regulatory body mandated to receive certification forms as required by the legislation, AB 1572. SWRCB is the state regulatory body that will be overseeing the implementation of AB 1572.

26. Turf: A ground cover surface of grass.

27. Urban Water Use Objective (UWUO): A supplier-specific estimate of the aggregate efficient water use in a given year, based on adopted water use efficiency standards and the local service area's characteristics as part of the Making Conservation a California Way of Life regulation.

28. Violation: A failure to comply with the Identification of and/or Irrigation Ban of Non-Functional Turf by Affected Water Customers, as required by this Ordinance.

29. Water User: A water customer that is the account holder with Desert Water Agency.

Section 2. Prohibition on Use of Potable Water to Irrigate Non-Functional Turf

A. Prohibition: Water Users subject to compliance shall not use Potable Water from the Agency's Domestic Water supply to irrigate Non-Functional Turf, as specified in subsection (C) below.

B. Scope of Prohibition: The prohibitions within this Ordinance apply to all properties owned by the Department of General Services, local Government Properties, Local or Regional Public Agencies, Public Water Systems, Institutional Properties and all Commercial and Industrial Properties, Common Areas of properties of Homeowners' Associations, Common Interest Developments, apartment properties, and Community Service Organizations or similar entities provided Potable Water by the Agency. The aforementioned property types are considered Affected Water Customers.

Single-family homes and turf areas irrigated with Recycled Water are excluded from the requirements of AB 1572 and are not required to comply with this Ordinance; this applies to Potable Domestic Water service only.

C. Compliance Timeline

This Ordinance shall take effect as follows:

- a. For all properties owned by the Department of General Services, state and local governments, local or Regional Public Agencies, and Public Water Systems, except for those specified in paragraph (d) below, beginning January 1, 2027.
- b. For all other Institutional Properties and all Commercial and Industrial Properties, beginning January 1, 2028.
- c. For all Common Areas of properties of Homeowners' Associations, Common Interest Developments such as mobile home parks, retirement communities, apartment complexes, and community service organizations or similar entities, beginning January 1, 2029.
- d. For all properties owned by local governments, local or Regional Public Agencies, and Public Water Systems in disadvantaged communities, beginning January 1, 2031, or the date upon which a state funding source is made available to fund conversion of Non-Functional Turf on these properties to climate-appropriate landscapes, whichever is later.

Self-certification requirements shall begin six (6) months prior to the applicable compliance deadline stated above. All Affected Water Customers are required to comply with self-certification requirements in Section 5 herein. Non-compliance with self-certification will be considered a separate requirement from irrigation requirements and may be dealt with through separate violations and penalties.

Section 3. Functional Turf Examples

Examples of Functional Turf landscaping that are not subject to the Agency's Ordinance, and therefore may be irrigated with Potable Water include, but are not limited to:

- a. Governmental Functional Turf: Turf areas on Governmental Properties that offer a public gathering benefit to the community, provide a dedicated function as a Recreational Use Area that improves the quality of life for the public, or have a justifiable operational requirement. Specific examples include public park Recreational Use Areas, and sports fields.
- b. Commercial, Industrial and Institutional Functional Turf: Turf areas on Commercial Properties which have an exclusive use, and are inherently required to sustain an essential function, service, or operation. Some examples include pet relief areas for veterinary and pet shelters, daycare centers, youth centers, agricultural applications, sports stadiums, and regularly programmed events in areas with temporary occupancy.

- c. Common Interest Development/HOA Common Area Functional Turf: Turf areas in a Homeowners Association's Common Area, or a similar entity, if it has a history (past, present and future) of programmed community events such as charity drives, weddings, concerts; or Recreational Use Areas with specific functions such as a children's playground, sports field, or dedicated pet areas.

Section 4. Non-Functional Turf Examples

Turf areas with no functional purpose other than being aesthetic, ornamental, or passive landscaping are Non-Functional Turf. Turf enclosed by fencing or other barriers to permanently preclude human access for recreation or assembly is Non-Functional Turf.

Any Turf on an Affected Water Customer's property that does not meet the criteria for Functional Turf—including but not limited to areas such as frontages, street rights-of-way, center medians, roundabouts, parking lots, HOA Common Areas, and Turf which is not assigned or allocated to the exclusive use of the occupants of an individual dwelling unit within the property—is classified as Non-Functional Turf.

Notwithstanding the above, the use of Potable Water is allowed to the extent necessary to address an immediate health and safety need or to ensure the health of trees and other perennial non-turf plantings. Where water is delivered to trees or other perennial non-turf plantings and Non-Functional Turf using a single irrigation valve, the water to the trees shall be delivered efficiently using drip, bubbler, or subterranean irrigation. Non-Functional Turf watered incidentally to the maintenance of a tree or other perennial non-turf planting is allowed; however, irrigation of Non-Functional Turf outside of the root zone is prohibited.

Section 5. Requirements for Agency Customers

A. Identification of Non-Functional Turf and Penalties: All Affected Water Customers identified in Section 2(B) shall self-identify and clearly designate Functional and Non-Functional Turf areas on their property. By June 30 of the year prior to the relevant deadlines as provided in Section 2(C) herein, Affected Water Customers shall submit a self-certification form and requested documents, including, but not limited to, a parcel map identifying all Functional and Non-Functional Turf areas. If an Affected Water Customer has no Functional Turf to report, a parcel map is not required, however, self-certification is still necessary. Self-certification information can be found on the Agency's website or by contacting the Agency.

All Affected Water Customers who fail to submit a self-certification form will be subject to the penalty schedule below, per property, starting 6 months prior to their compliance deadline:

- a. January through June: Monthly written correspondence of need to self-certify.
- b. July: \$125 penalty for self-certification non-compliance.
- c. August: \$250 penalty for self-certification non-compliance.
- d. September and Beyond: \$500 penalty per month of self-certification non-compliance. Properties out of compliance after December shall be subject to increasing penalties in accordance with Section 9(C).

Affected Water Customer self-certification is mandatory. Failure to comply with self-certification procedure will delay the Agency's review and processing of Functional and Non-Functional Turf areas on a customer's property.

B. Non-Functional Turf Plan and Processing: All self-certification forms received by the Agency will be reviewed for accuracy and compliance with this Ordinance. If a map identifying Functional Turf areas on the property is provided, the map will be assessed, and the water customer will receive either an approval or denial. For Affected Water Customers who do not submit a self-certification form, all Turf on the property will be considered Non-Functional Turf, and subject to the penalties identified in Section 5(A) and Section 9(C), until a self-certification form and supporting documentation are received.

C. Continued Reporting: Affected Water Customers shall be subject to recertification to the State Water Resource Control Board, as stated in Appendix A, Section 4, 10608.14(e)(1) and 10608.14(e)(2). In addition, Affected Water Customers are required to recertify with the Agency on the same timeline.

D. Enforcement: Affected Water Customers shall be responsible for complying with the terms of this Ordinance. Non-compliance may result in penalties as outlined in Section 5(A) and 9(C).

E. Agency Discretionary Compliance Considerations: The Desert Water Agency Board may, for all Affected Water Customers showing good cause for economic hardship and a good faith effort to conserve, postpone a compliance deadline in Section 2(C) by up to three years.

Section 6. Exemptions and Dispute Process

A. Exemptions

Turf areas exempt from the Potable Water irrigation prohibition include:

- a. **Special Watering Needs:** Turf areas that are part of environmental mitigation efforts, provided that such areas are specifically approved by the relevant land use agency, for reasons such as fire prevention or mudflow abatement.

- b. Recycled Water Properties:** Properties where landscape is maintained through Recycled Water are exempt from AB 1572 and the requirements of this Ordinance.

B. Dispute Process: The dispute process is an opportunity for Affected Water Customers who received a denial for an area identified in their self-certification form, or were assessed penalties as described herein, to have their property reevaluated by Agency staff. The Affected Water Customer shall submit a written dispute within ten (10) business days of staff determination and include a map indicating the areas for reconsideration. The dispute form will provide Affected Water Customers with the opportunity to expand on the functionality of turf areas previously denied or penalized.

Once a dispute is filed with the Agency, the penalty timeline shall be placed on hold, and late fees and disconnection proceedings as a result of the penalty being disputed shall be paused until a determination to the dispute has been issued.

When a dispute has been filed, and the penalty timeline placed on hold, it shall not place on hold late fees and disconnection proceedings as a result of unpaid water and/or sewer bills in accordance with the Agency's ordinances governing domestic water service and wastewater service.

The dispute will either be approved or denied, and such decision will be final unless appealed to the Board of Directors.

Disputes may be directed in the following ways:

Website address: dwa.org/dispute

Mail: PO Box 1710, Palm Springs, CA 92263-1710

In-Person: 1200 S. Gene Autry Trail, Palm Springs, CA 92264

C. Appeal & Hearing Process: Any customer who is not satisfied with the outcome of the dispute determination may, within ten (10) business days of the Agency staff's decision, appeal the matter to the Board of Directors. This appeal must be sent to the attention of the Agency's Assistant Secretary to the Board in a written request submitted online via webform, via email, at the Agency offices, or via United States mail. Any appeal may be sent to the addresses in Section 6(B) herein or those included on the notification of denied dispute. Upon receiving the notice of appeal, the Agency's Assistant Secretary to the Board will set the matter to be heard at an upcoming Board meeting and notify the appellant of the hearing date and time. The decision of the Board of Directors shall be final. A customer may not appeal a staff dispute determination more than ten (10) business days after the determination has been made.

Once an appeal is filed with the Agency, the penalty timeline shall be placed on hold, and late fees and disconnection proceedings as a result of the penalty being disputed shall be paused until the Board has made a determination regarding the appeal.

When an appeal has been filed, and the penalty timeline placed on hold, it shall not place on hold late fees and disconnection proceedings as a result of unpaid water and/or sewer bills in

accordance with the Agency's ordinances governing domestic water service and wastewater service.

Section 7. Agency Technical Assistance

The Agency shall provide educational resources, presentations, and technical assistance to water customers regarding compliance with AB 1572 and this Ordinance, methods and strategy on Turf/grass conversion, as well as general guidance on water conservation.

Section 8. Enforcement & Inspections

A. Active Enforcement: The Agency shall monitor the status of Non-Functional Turf areas that continue to be irrigated with Potable Water after the applicable compliance dates as indicated in Section 2(C).

B. Site Inspections: The Agency may conduct site inspections to verify compliance with the provisions of this Ordinance and the validity of an Affected Water Customer's self-certification. Affected Water Customers must cooperate with inspections and provide access to their properties, as needed. Refusal to allow or permit proper access in accordance with this subsection may result in a violation and penalties as described in Section 9(C).

C. Violation Verification: Some examples of how violations can be verified include, but are not limited to:

- a. Agency staff observed and confirmed field reports.
- b. Publicly submitted reports that have been investigated and confirmed by Agency staff.
- c. Reports from SWRCB that have been investigated and confirmed by Agency staff.
- d. Other routine inspection procedures combined with advanced metering technologies.
- e. Self-certification maps.
- f. Non-Functional Turf site inspections.
- g. Other verification methods.

Section 9. Penalties & Violations

A. Notice of Violation

If an Affected Water Customer is found to be in violation of this Ordinance, the Agency shall issue a notice of violation, specifying the nature of the violation, the required corrective actions, and the deadline for correcting the violation.

B. Irrigation Ban of Non-Functional Turf & Penalties

Failure to comply with this Ordinance by the mandated time may result in penalties, or other enforcement actions, as determined by the Agency. Enforcement may include a monetary penalty up to \$2,000 per property for each violation according to the penalty schedule in section 9(C).

C. Penalty Schedule: The use of Potable Water to irrigate Non-Functional Turf is a violation, and will no longer be legally permissible, as stated in the mandated compliance dates in Section 2(C). A good faith effort to comply will be taken into consideration and Affected Water Customers should communicate their plans for corrective action to the Agency.

If a violation is verified, the following penalty schedule will apply:

- a. First Violation: Written warning, allowing thirty (30) calendar days for a response with corrections.
- b. Second Violation: If, after thirty (30) calendar days, a second violation is verified or if there is a failure to commence corrective action for the first violation, a penalty in the amount of \$125.00 will be added to the customer's water service account or bill.
- c. Third Violation: If a third violation is verified at least fifteen (15) calendar days after the second violation notice, a penalty in the amount of \$250.00 will be added to the customer's water service account or bill.
- d. Fourth Violation: If a fourth violation is verified at least five (5) calendar days after the third violation notice, a penalty in the amount of \$500.00 will be added to the customer's water service account or bill.
- e. Fifth Violation: If a fifth violation is verified at least five (5) calendar days after the fourth violation notice, a penalty in the amount of \$1,000.00 will be added to the customer's water service account or bill.
- f. Sixth Violation: If a sixth violation is verified at least five (5) calendar days after the fifth violation notice, a penalty in the amount of \$2,000 will be added to the customer's water service account or bill.
- g. Beyond Sixth Violation: Additional penalties of \$2,000 per verified violation can be imposed for each violation that occurs at least three (3) calendar days after the last violation notice.

In the event of any violation after the sixth violation within a twelve-month period, the General Manager or their designee may determine, at their reasonable discretion, that the continued violation of the provisions set forth in this Ordinance warrant the initiation of the procedures for termination of water service.

In addition to any other remedies provided under this Ordinance or available under applicable law, the Agency may seek alternative injunctive relief, including discontinuing or appropriately limiting water service by the installation of a flow restricting device, for any Affected Water Customers found to be in violation of this Ordinance.

Affected Water Customers who demonstrate twelve (12) months violation-free for a specific property, between the date of any new violations and their last violation correction, will restart the penalty process and receive a first violation notice.

D. Dispute Process: Water customers who receive a notice of violation may dispute the decision to Agency staff in writing. Any dispute may be made as provided in Section 6(B).

Once a dispute is filed with the Agency, the penalty timeline shall be placed on hold, and late fees and disconnection proceedings as a result of the penalty being disputed shall be paused until a determination to the dispute has been issued.

When a dispute has been filed, and the penalty timeline placed on hold, it shall not place on hold late fees and disconnection proceedings as a result of unpaid water and/or sewer bills in accordance with the Agency's ordinances governing domestic water service and wastewater service.

E. Appeal & Hearing Process: Any customer who is not satisfied with the outcome of the dispute determination may, within ten (10) business days of the Agency staff's decision, appeal the matter to the Board of Directors according to the procedures in Section 6(C) herein.

A customer may not appeal a staff dispute determination more than ten (10) business days after the determination has been made.

When an appeal has been filed, the penalty timeline shall be placed on hold, and late fees and disconnection proceedings as a result of the penalty being disputed shall be paused until the Board has made a determination regarding the appeal.

When an appeal has been filed, and the penalty timeline placed on hold, it shall not place on hold late fees and disconnection proceedings as a result of unpaid water and/or sewer bills in accordance with the Agency's ordinances governing domestic water service and wastewater service.

Section 10. Severability

If any provision of this Ordinance is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Section 11. Certification

The Assistant Secretary to the Board shall certify the adoption of the Ordinance and cause it to be published as required by law.

Section 12. Effective Date

This Ordinance shall take effect immediately upon adoption and all provisions contained herein shall be enforceable as described.

ADOPTED this 5th day of August, 2025.



Paul Ortega, President

ATTEST:



Kristin Bloomer, Secretary-Treasurer