

**ORDINANCE NO. XXX**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE SANTA YNEZ RIVER  
WATER CONSERVATION DISTRICT, IMPROVEMENT DISTRICT NO.1  
ESTABLISHING REGULATIONS AND FINES RELATING TO WATER THEFT**

**WHEREAS**, the Santa Ynez River Water Conservation District, ID No.1 (“District”) is responsible for providing safe, sufficient, reliable, and affordable water service to its customers and for managing and protecting the District’s public water system infrastructure; and

**WHEREAS**, water is one of California’s most important resources, especially as the state continues to face the challenges of recurring drought conditions

**WHEREAS**, unfortunately, the unauthorized use and diversion of District water supplies, and the unauthorized use of and tampering with District meters, fire hydrants, and other forms of water theft is a growing problem which jeopardizes the fairness, affordability, and financial integrity of the District’s water system, undermines water conservation, causes revenue losses to the District, damages District facilities, and endangers public health and safety; and

**WHEREAS**, water theft from fire hydrants can present particularized public health and safety hazards, including reduced water pressure for firefighting, potential contamination of potable water supplies, and physical damage to hydrants, pipelines, and other critical water supply infrastructure; and

**WHEREAS**, California Government Code Sections 53069.45 and 53069.46 authorize local agencies that provide water service to adopt ordinances prohibiting water theft and unauthorized use of water agency facilities, and imposing administrative fines or penalties for violations of such ordinances; and

**WHEREAS**, California Penal Code Section 498 authorizes criminal prosecution for the unauthorized use of, diversion from, connection to, or tampering with District water supplies or water supply facilities, in addition to other unauthorized acts; and

**WHEREAS**, the District’s Board of Directors finds that adoption of this Ordinance is necessary to deter and penalize unauthorized use of the District public water supplies and water supply facilities, protect District assets, and help protect an equitable distribution of costs among those lawful and authorized users of District water supplies and services.

**NOW, THEREFORE**, the Board of Directors of the Santa Ynez River Water Conservation District, Improvement District No.1 does hereby ordain as follows:

## **SECTION 1. Title and Purpose**

This Ordinance shall be known as the “Water Theft Ordinance of the Santa Ynez River Water Conservation District, Improvement District No.1.”

The purpose of this Ordinance is to further enable the District to preserve and protect District water supplies and water supply infrastructure from theft, unauthorized use, tampering, potential contamination, damage, and unnecessary costs, and to establish administrative procedures for the imposition, enforcement, collection, and administrative review of fines established by this Ordinance in accordance with applicable provisions of California law.

## **SECTION 2. Authority**

This Ordinance is adopted pursuant to California Government Code Sections 53069.45 and 53069.46; California Civil Code Sections 1882.1, 1882.2, and 1882.3; California Penal Code Section 498; and the District’s Rules and Regulations and enabling act.

## **SECTION 3. Prohibited Acts Constituting Water Theft**

It shall be unlawful and shall constitute water theft for any person to do any of the following:

- (a) Divert, or cause to be diverted, water from any component of the District’s water system without specific prior authorization from the District and without paying all applicable charges for District water and services.
- (b) Make, or cause to be made, any connection or reconnection to any component of the District’s water system, including but not limited to any District water meter, pipeline, fire hydrant, or other appurtenance without specific authorization from the District and without paying all applicable charges for District water and services.
- (c) Prevent any District water meter or other device used in determining the amount of water provided by the District from accurately performing its measuring function by tampering, interference, damage, bypass, alteration or other means.
- (d) Connect to, divert water from, cause water to be diverted from, tamper or interfere with, damage, bypass, or alter any District fire hydrant, hydrant meter, or fire detector check without specific prior authorization from the District and without paying all applicable charges for District water and services. Any such activity shall constitute an unauthorized connection to a District fire hydrant.
  - a. Notwithstanding the generality of Section 3(d) above, a public agency having firefighting or emergency response responsibilities *during a fire*, with approval from incident command or the authority having jurisdiction over the active fire incident, shall be considered to have authorization from the District to use District fire hydrants *during an active fire incident*.

- b. In furtherance of Section 3(d) above, and notwithstanding the specificity of Section 3(d)(a) above, *in the absence of an active fire incident*, a public agency having firefighting or emergency response responsibilities or any other person, entity, or agency shall not be considered to have authorization from the District to use any District fire hydrant without specific prior authorization from the District.
  
- (e) Commit, authorize, solicit, aid, abet, assist, permit, cause, or attempt any of the above acts to occur.

**SECTION 4. Administrative Penalties**

Pursuant to Government Code Sections 53069.45 and 53069.46, the following administrative fines may be imposed by the District for violations of this Ordinance:

<b>Violation Type</b>	<b>First Violation</b>	<b>Second Violation</b>	<b>Third or Subsequent Violation</b>
Water Theft By Meter Tampering	Up to \$130	Up to \$700	Up to \$1,300
Water Theft By Other Means – Not Including Fire Hydrants	Up to \$1,000	Up to \$2,000	Up to \$3,000
Water Theft By Unauthorized Connection To A Fire Hydrant	Up to \$2,500	Up to \$5,000	Up to \$10,000

Each day that a violation occurs or continues shall constitute a separate violation subject to a separate administrative fine. The District’s General Manager shall determine applicable fines imposed under this Ordinance in accordance with the terms set forth herein.

**SECTION 5. Additional Recovery by the District**

In addition to administrative fines established by this Ordinance, the District may impose additional costs, fines, penalties, and charges in connection with water theft violations, including but not limited to those set forth in the District’s Rules and Regulations, as follows:

- (a) Charges for water taken or diverted in violation of this Ordinance; and
  
- (b) All District costs to repair or replace damaged meters, valves, fire hydrants, or other water system facilities, including but not limited to all applicable labor, materials, administrative, consulting, expert, and legal costs; and

- (c) All investigation, enforcement, administrative, consulting, expert, and legal costs incurred by the District to implement and enforce terms of this Ordinance.

#### **SECTION 6. Service Termination and Restoration**

The District may in its sole and absolute discretion immediately discontinue water service to any person, entity, agency, premises, or property involved in a violation of this Ordinance, where water service shall not be restored unless and until, as determined by the District's General Manager, the following conditions are satisfied:

- (a) All violations are corrected; and
- (b) All costs, fines, penalties, and charges are paid in full or in accordance with terms and conditions accepted by the District; and
- (c) Adequate safeguards are in place to protect public health and safety, the District's water supplies, and its water supply system, and to prevent further violation(s) of this Ordinance.

#### **SECTION 7. Hardship Waiver Requests**

Any person, entity, or agency upon whom a fine described in Government Code Section 53069.45 is imposed under this Ordinance may, within fifteen (15) calendar days a written notice of violation and imposition of fine by the District, submit a written request to the District for a hardship waiver, which request may include supporting documentation and must demonstrate that payment of the full amount of the fine would impose an undue financial burden on the responsible party. Written requests for a hardship waiver shall not apply to and are not available for fines described in Government Code Section 53069.45 and Section 3(d) and Section 4 of this Ordinance relating to water theft from an unauthorized connection to a District fire hydrant. Timely requests for a hardship waiver will be reviewed and determined by the District's General Manager, who will provide written notification of the determination to the requesting party.

#### **SECTION 8. Appeal Procedure**

A written appeal of any determination, fine, or decision issued by the District's General Manager pursuant to this Ordinance may be submitted to the District's Board of Trustees within fifteen (15) calendar days of the issuance of such determination, fine, or decision being appealed. For purposes of this Section 8, the determination, fine, or decision being appealed shall be deemed received by the appealing party five (5) calendar days after being issued by the District, and an appealing party's written appeal shall be deemed submitted by said party on the postmarked date if delivered by mail, and on the date of transmittal if delivered by electronic mail or personal service to the District's office during normal business hours. Upon receiving a written appeal, the District will schedule the matter to be heard by the Board of Trustees at an upcoming Board meeting. Written notice of the date, time, and place of the appeal to be heard by the Board will be provided to the appealing party. The decision of the Board shall be final and conclusive, subject to judicial review under Code of Civil Procedure Section 1094.5.

**SECTION 9. Additional Remedies**

This Ordinance supplements, and does not limit, any civil or criminal remedies available to the District under applicable law. Violations may be referred to local authorities for prosecution under Penal Code Section 498 or pursued for civil enforcement to recover damages and penalties. In accordance with Civil Code Section 1882.2, in any civil action brought by the District to recover damages in connection with any violation of this Ordinance, the District may recover as damages three times the amount of actual damages plus the cost of suit and reasonable attorney’s fees.

**SECTION 10. Public Reporting**

Members of the public are encouraged to report suspected water theft to the District by contacting the District office in person, by calling the District office/hotline day or night at (805) 688-6015, or via electronic mail at [general@syrwd.org](mailto:general@syrwd.org). All reports shall be treated as confidential to the extent permitted by law.

**SECTION 11. Severability**

If any provision of this Ordinance or its application is held invalid, the remaining provisions shall remain in full force and effect.

**SECTION 12. Effective Date**

This Ordinance shall take effect immediately upon adoption by the District’s Board of Trustees.

**AYES**, and in favor thereof, Trustees:

**NOES**, Trustees:

**ABSENT**, Trustees:

\_\_\_\_\_  
Jeff Clay, President

**ATTEST:**

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Racel Cota, Secretary to the Board of Trustees