

Article 17. **Water Shortage Response Program.**

Sec. 17.1 Declaration of Policy.

California Water Code Section 375 et seq. permit public entities which supply water at retail to adopt and enforce a water conservation program to reduce the quantity of water used by the people therein for the purpose of conserving the water supplies of such public entity. The Board of Directors hereby establishes a comprehensive water conservation program pursuant to California Water Code Section 375 et seq., based upon the need to conserve water supplies and to avoid or minimize the effects of any future shortage. Additionally, the California Water Code mandates that water agencies adopt a water shortage contingency plan (WSCP) as part of their Urban Water Management Plan (UWMP). The District's WSCP is a detailed plan for how an urban water supplier, like the District, intends to act in the case of any actual water shortage condition. This Article 17 is consistent with the District's WSCP and is how the District implements its WSCP, and can be amended, as needed, outside of updating the District's UWMP.

Sec. 17.1.1 PSAWR Reduction Program.

The San Diego County Water Authority Permanent Special Agricultural Water Program (PSAWR) provides discounted wholesale supply and treatment pricing for qualified agricultural users within its service area on the basis that participants receive non-firm, interruptible supply up to the maximum allowed per the SDCWA Program. During periods of water shortages imposed by the Metropolitan Water District (MWD), the SDCWA, or due to emergency situations, those customers who are participating in the PSAWR shall abide by the conditions set forth by SDCWA. Administration of the PSAWR Program is incorporated by reference in Article 10 of this Administrative Code.

Sec. 17.1.2 PSAWR Reduction Compliance.

When SDCWA imposes a mandatory use reduction, PSAWR customers must be prepared to reduce consumption by complying with a water allocation, or water use target. Water consumed during each billing period will be compared to the assigned target. Any use below the target will be accumulated and carried forward. The customer's cumulative use will be compared with the cumulative target, and any total usage above the target will be billed at the "above average" rates. This cumulative comparison will continue for the duration of the fiscal year. Below target usage "credits" will be carried forward until the cumulative target is exceeded, at which time, all cumulative "over target" use will be billed at the "above target" rates. The cumulative comparison process will start over in the next fiscal year.

Upon written request, customers shall reserve the right to "group" accounts and adjust, or "smooth", allocations to facilitate compliance.

Sec. 17.2 Findings.

The Board of Directors finds and determines that a water shortage could exist as a result of a general regional water supply shortage due to increased demand or limited supplies.

The Board of Directors also finds and determines that the conditions prevailing within and in the vicinity of the District's service area require that the water resources available be put to 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 that the conservation of such water encouraged with a view to the maximum reasonable and beneficial use thereof in the interests of the people of the Fallbrook Public Utility District and for the public welfare.

Sec. 17.3 Application.

The provisions of this Administrative Code shall apply to all water served to persons, customers, and property by the Fallbrook Public Utility District.

Sec. 17.4 Determination and Declaration of Water Supply Conditions.

Sec. 17.4.0 NORMAL CONDITIONS. The District's service area is in a semi-arid climate. Good water management practices dictate that water be used wisely and not wasted at any time. Customers are required to follow the guidelines presented in Sec. 17.8.0 for Normal Conditions at all times. The District will provide public education and outreach efforts to emphasize public awareness of the need to always use water wisely and practice water conservation measures.

Sec. 17.4.1 The General Manager shall monitor the projected supply and demand for water by its customers on a daily basis. The General Manager shall determine the extent of the conservation required through the implementation and/or termination of particular conservation stages in order for the District to prudently plan for and supply water to its customers, and shall recommend to the Board of Directors that the appropriate level of water conservation/water shortage condition be implemented or terminated in accordance with the applicable provision of this Administrative Code. Based on the recommendation of the General Manager, and based upon all available data, the Board of Directors shall from time to time determine and declare whether the District's water supply is in one of the following "water shortage" conditions:

1. WATER SHORTAGE RESPONSE LEVEL 1 – WATER SHORTAGE NOTICE CONDITION. This level applies when local supply conditions, and/or the District's wholesale water agency notifies the District that due to water shortage or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to ten percent (10%) is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The Board of Directors may declare the existence of a Water Shortage Response Level 1 condition. In such an event, the Board of Directors shall take action to implement and increase enforcement of the conservation practices identified in Sec. 17.8.1 and may implement drought rates as specified in 17.8.7.

2. WATER SHORTAGE RESPONSE LEVEL 2 – WATER SHORTAGE WATCH CONDITION. This level applies when local supply conditions, and/or the District's wholesale water agency notifies the District that due to water shortage or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to twenty percent (20%) is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The Board of Directors may declare the existence of a Water Shortage Response Level 2 condition. In such an event, the Board of Directors shall take action to implement the Level 2 conservation practices identified in Sec. 17.8.2. During a Level 2 Water Shortage Watch Condition, the District may implement drought rates as specified in 17.8.7, and may suspend consideration of annexations to its service area, and any service outside District boundaries.

3. WATER SHORTAGE RESPONSE LEVEL 3 – WATER SHORTAGE ALERT CONDITION. This level applies when local supply conditions, and/or the District’s wholesale water agency notifies the District that due to cutbacks caused by water shortages or other reduction in supplies, a consumer demand reduction of up to thirty percent (30%) is required in order to have sufficient supplies available to meet anticipated demands. The Board of Directors may declare the existence of a Water Shortage Response Level 3 condition. In such an event, the Board of Directors shall implement the mandatory Level 3 conservation measures identified in Sec. 17.8.3. During a Level 3 Water Shortage Alert Condition the District may implement drought rates as specified in 17.8.7, and may suspend consideration of annexations to its service area, and any service outside District boundaries.
4. WATER SHORTAGE RESPONSE LEVEL 4 – WATER SHORTAGE WARNING CONDITION. This level applies when local supply conditions, and/or the District’s wholesale water agency notifies the District that due to increasing cutbacks caused by water shortages or other reduction of supplies, a consumer demand reduction of up to forty (40%) percent is required in order to have sufficient supplies available to meet anticipated demands. The Board of Directors may declare the existence of a Water Shortage Response Level 4 condition. In such an event, the Board of Directors shall implement the Level 4 conservation measures identified in Sec. 17.8.4. During a Level 4 Water Shortage Warning Condition the District may implement drought rates as specified in 17.8.7, and may suspend consideration of annexations to its service area, and any service outside District boundaries.
5. WATER SHORTAGE RESPONSE LEVEL 5 – CRITICAL CONDITION. This level applies when local supply conditions, and/or the District’s wholesale water agency notifies the District that due to increasing cutbacks caused by water shortages or other reduction of supplies, a consumer demand reduction of up to fifty percent (50%) is required in order to have sufficient supplies available to meet anticipated demands. The Board of Directors may declare the existence of a Water Shortage Response Level 5 condition. In such an event, the Board of Directors shall implement the Level 5 conservation measures identified in Sec. 17.8.5. During a Level 5 Critical Condition, the District may implement drought rates as specified in 17.8.7 and may suspend consideration of annexations to its service area, and any service outside District boundaries.
6. WATER SHORTAGE RESPONSE LEVEL 6 – EMERGENCY CONDITION. This level applies when local supply conditions, and/or the District’s wholesale water agency declares a water shortage emergency pursuant to California Water Code Section 350. A Level 6 Emergency Condition requires a demand reduction of greater than fifty percent (>50%) in order for the District to have maximum supplies available to meet anticipated demands. The Board of Directors may declare the existence of a Water Shortage Response Level 6 condition. In such an event, the Board of Directors shall implement the Level 6 conservation measures identified in 17.8.6. During a Level 6 Emergency Condition the District may implement drought rates as specified in 17.8.7, and may suspend consideration of annexations to its service area, and any service outside District boundaries.

The General Manager is authorized to require submission of water use curtailment plans from those users having the largest effect on overall District consumption in order to protect the minimum supplies necessary to provide for public health,

sanitation, and fire protection. Failure to provide curtailment plans in a timely manner or plans that do not meet the required cutbacks shall authorize the District to install flow restrictors at the meter or termination of service.

Sec. 17.5 Implementation of Water Shortage Condition Declarations.

California Water Code Sections 375 et seq. permit public entities which supply water at retail to adopt and enforce a water conservation program to reduce the quantity of water used by the people therein for the purpose of conserving the water supplies of such public entity.

The declaration of any level beyond Normal Conditions shall be made by the Board of Directors, and public announcement shall be made to the District's rate payers through direct communication (mail and/or phone notification), physical posting in the District lobby, on the District website and by publication in a newspaper of general circulation and shall become effective immediately upon announcement. Upon adoption of a water shortage condition, the District shall provide notice to customers within (14) days of the Board's declaration.

The declaration shall be reported by the Board of Directors. The Board of Directors shall rescind the declaration, and may adopt such additional rules and regulations to limit water use during the emergency as it deems appropriate.

Sec. 17.6 Duration of Declaration.

As soon as a particular condition is declared to exist, the water conservation measures provided for herein for that condition shall apply to all District water service until a different condition is declared.

Sec. 17.7 Mandatory and Discretionary Use of Recycled Water.

Nothing in this Administrative Code shall prohibit or limit the use of recycled water for any purposes listed herein. No customer of the District shall make, cause, use or permit the use of potable water supplied by the District for construction grading on major subdivisions, paved surface cleaning, or greenbelt uses, including, but not limited to, cemeteries, playing fields, parks, and highway landscaped areas, when, following notice and a hearing, the District finds that recycled water is available under the following conditions:

1. The recycled water is of adequate quality and is available for use.
2. The recycled water may be furnished to such areas at a reasonable cost, equal to or less than the cost of supplying potable domestic water.
3. The State Department of Health Services has determined that such use would not be detrimental to public health.
4. The use of recycled water will not adversely affect downstream water rights, and will not degrade water quality.

Sec. 17.8

Water Conservation Stages.

Sec. 17.8.0 NORMAL CONDITIONS.

During a Normal Condition, customers are required to use water wisely and to practice water conservation measures so that water is not wasted. All water withdrawn from District facilities shall be put to reasonable beneficial use. District water users shall comply with the following water use prohibitions and conservation measures at all times:

1. Do not wash down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
2. Eliminate water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
3. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only, unless using drip irrigation.
4. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
5. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.
6. Use re-circulated water to operate ornamental fountains.
7. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.
8. The irrigation with potable water of ornamental turf on public street medians is prohibited.
9. The application of potable water to outdoor landscapes during or within 48 hours of measurable rainfall is prohibited
10. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the County of San Diego's Landscape Ordinance.

11. Serve and refill water in restaurants and other food service establishments only upon request.
12. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
13. Repair all water leaks within five (5) days of notification by the Fallbrook Public Utility District unless other arrangements are made with the General Manager.
14. Use recycled or non-potable water for construction purposes when available.

During a Water Shortage Response Levels 1-6 condition, the water conservation measures and water use restrictions established by this Article 17 are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies as specified in this Article.

Sec. 17.8.1 WATER SHORTAGE RESPONSE LEVEL 1 – WATER SHORTAGE NOTICE CONDITION.

During a Level 1 Water Shortage Notice condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices to ensure that no water is wasted, and increase enforcement of prohibitions of end use to promote a consumer demand reduction of up to ten percent (10%).

All persons using District water shall comply with Normal Conditions water conservation practices during a Level 1 Water Shortage Watch, as identified in Sec. 17.8.0.

Sec. 17.8.2 WATER SHORTAGE RESPONSE LEVEL 2 – WATER SHORTAGE WATCH CONDITION.

During a Level 2 Water Shortage Watch condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices to ensure that no water is wasted, and promote a consumer demand reduction of up to twenty percent (20%).

All persons using District water shall comply with Normal Conditions and Level 1 Water Shortage Notice water conservation practices during a Level 2 Water Shortage Watch, as identified in Sec. 17.8.0 and 17.8.1. Additionally, upon declaration of a Level 2 Water Shortage Watch condition, the District will suspend consideration of annexations to its service area except under the following circumstances:

1. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of Fallbrook Public Utility District.

Sec. 17.8.3 WATER SHORTAGE RESPONSE LEVEL 3 – WATER SHORTAGE ALERT CONDITION.

During a Level 3 Water Shortage Alert condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices to ensure that no water is wasted, and promote a consumer demand reduction of up to thirty percent (30%).

All persons using District water shall comply with Normal Conditions, Level 1 Water Shortage Notice and Level 2 Water Shortage Watch water conservation practices during a Level 3 Water Shortage Alert, as identified in Sec. 17.8.0, 17.8.1 and 17.8.2, and shall also comply with the following additional conservation measures:

1. During the months of June through October, limit residential and commercial landscape irrigation to no more than two (2) days per week on a schedule established by the General Manager and posted by the Fallbrook Public Utility District. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the Fallbrook Public Utility District. During extreme Santa Ana conditions (temperature > 80 and easterly winds > 20 mph), one additional day per week of watering is allowed. This section shall not apply to commercial growers or nurseries. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotor sprinklers.
2. Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10) minutes per watering station per assigned day. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotor sprinklers.
3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 17.8.3 (1), on the same schedule set forth in Section 17.8.3 (1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.
4. Repair all leaks within seventy-two (72) hours of notification by the Fallbrook Public Utility District unless other arrangements are made with the General Manager.

For Levels 3 and above, the District may establish a water allocation for property served by the Fallbrook Public Utility District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices and allows for the banking and subsequent use of unused allocations.

If the District establishes a water allocation it shall provide notice of the allocation within (14) days of its establishment by including it in the regular billing statement for the fee or

charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for ongoing water service. The following customer classes are subject to allocations: Commercial Agriculture (CA), Commercial Agriculture Domestic (CB), Commercial (C), Government (G), and Irrigation (I). Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty in the amount of 1.5 times the Base Rate, for each unit of usage greater than the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Article.

Sec. 17.8.4 WATER SHORTAGE RESPONSE LEVEL 4 – WATER SHORTAGE WARNING CONDITION.

During a Level 4 Water Shortage Warning condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices to ensure that no water is wasted, and promote a consumer demand reduction of up to forty percent (40%).

All persons using District water shall comply with Normal Conditions, Level 1 Water Shortage Notice, Level 2 Water Shortage Watch and Level 3 Water Shortage Alert water conservation practices as identified in Sections 17.8.0, 17.8.1, 17.8.2 and 17.8.3 during a Level 4 Water Shortage Warning condition and shall also comply with the following additional mandatory conservation measures:

1. Water landscaped areas, including trees and shrubs located on residential and commercial properties, in accordance with Section 17.8.3.
2. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this Article.
3. Stop washing vehicles except at commercial carwashes that recirculate water, or by high pressure/low volume wash systems.
4. Repair all leaks within forty-eight (48) hours of notification by the Fallbrook Public Utility District unless other arrangements are made with the General Manager.

Sec. 17.8.5 WATER SHORTAGE RESPONSE LEVEL 5 – WATER SHORTAGE CRITICAL CONDITION.

During a Level 5 Water Shortage Critical condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices to ensure that no water is wasted, and promote a consumer demand reduction of up to fifty percent (50%).

All persons using District water shall comply with Normal Conditions, Level 1 Water Shortage Notice, Level 2 Water Shortage Watch, Level 3 Water Shortage Alert and Level 4 Water Shortage Warning water conservation practices as identified in Sections 17.8.0,

17.8.1, 17.8.2, 17.8.3 and 17.8.4 during a Level 5 Water Shortage Critical Condition, and shall also comply with the following additional mandatory conservation measures:

1. Stop all automated landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use unless the Fallbrook Public Utility District has determined that recycled water is available and may be lawfully applied to the use.
 - A. Maintenance of trees and shrubs that are watered on the same schedule set forth in Section 17.8.3 by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;
 - B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection Fallbrook Public Utility District having jurisdiction over the property to be irrigated;
 - C. Maintenance of existing landscaping for erosion control;
 - D. Maintenance of plant materials identified to be rare or essential to the wellbeing of rare animals;
 - E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under Section 17.8.3;
 - F. Watering of livestock; and
 - G. Public works projects and actively irrigated environmental mitigation projects.
2. Repair all water leaks within twenty-four (24) hours of notification by the Fallbrook Public Utility District unless other arrangements are made with the General Manager.

The District may establish a water allocation for property served by the District. If the District establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for ongoing water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty in the amount 1.5 times the Base Rate, for each unit of usage greater than the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Article.

3. (PSAWR) customers participating in the San Diego County Water Authority (SDCWA) PSAWR Program must abide by any PSAWR restrictions that may be in place.

Water consumed during each billing period will be compared to the assigned target. Any use below the target will be accumulated and carried forward. The customer's cumulative use will be compared with the cumulative target, and any total usage above the target will be billed at the "above target" rates. This cumulative comparison will continue for the duration of the fiscal year. Below target usage "credits" will be carried forward until the cumulative target is exceeded, at which time, all cumulative "over target" use will be billed at the "above target" rates and the cumulative comparison process will start over in the next fiscal year.

Sec. 17.8.6 WATER SHORTAGE RESPONSE LEVEL 6 – EMERGENCY CONDITION.

During a Level 6 Emergency Condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement water conservation practices to ensure that no water is wasted, and promote a consumer demand reduction of greater than fifty percent (>50%).

All person using District water shall comply with Normal Conditions, Level 1 Water Shortage Notice, Level 2 Water Shortage Watch, Level 3 Water Shortage Alert, Level 4 Water Shortage Warning, and Level 5 Water Shortage Critical water conservation practices as identified in Sections 17.8.0, 17.8.1, 17.8.2, 17.8.3, 17.8.4 and 17.8.5, and shall also comply with the following additional mandatory conservation measures:

The General Manager is authorized to require submission of water use curtailment plans from those users having the largest effect on overall District consumption in order to protect the minimum supplies necessary to provide for public health, sanitation, and fire protection. Failure to provide curtailment plans in a timely manner or plans that do not meet the required cutbacks shall authorize the District to install flow restrictors at the meter or termination of service.

Sec. 17.8.7 Drought Rates

Drought Rates may be implemented during declaration of Levels 1, 2, 3, 4, 5 and 6 described above. Drought Rates would only be in effect during declared drought Levels 1-6. The escalation factors that would be used to calculate “Drought Rates” relative to a given year’s normal rates are set forth in the tables below:

Monthly Drought Rates by Drought Levels (\$/kgal)			
	Level 1 (10% Reduction)	Levels 2 and 3 (20% and 30% Reduction)	Levels 4, 5 and 6 (40%, 50% and >50% Reduction)
Drought rates (actual class and tier rates will be calculated and adjusted based upon a given year’s approved rates and the drought level in place)	104.98% of Normal Rates	109.61% of Normal Rates	123.03% of Normal Rates

*TSAWR customers are not subject to these drought rates, though they must implement cuts to water use as implemented during specific drought restrictions or face penalties as discussed above in Section 17.1.2.

Section 17.9 Water Shortage Emergencies Pursuant to Water Code Section 350 et seq.

In addition to the declaration by the Board of a water shortage condition under this Article 17, the restrictions in this subsection shall apply if the Board of Directors adopts finding supporting a Water Shortage Emergency and does declare a Water Shortage Emergency in the manner and on the grounds provided in Water Code Section 350 et seq. “Water Shortage Emergency” means a condition existing within the District in which the ordinary water demands and requirements of the persons within the District cannot be satisfied without depleting the District’s water supply to the extent that there would be insufficient water for human consumption, sanitation and fire protection. A water shortage emergency includes a threatened water shortage, in which the District determines that its supply cannot meet an increased future demand.

The District may determine no new potable water service will be provided, no new temporary meters will be provided and those in use will be terminated and collected, no permanent meters will be installed, no additional capacity will be sold, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) will be issued, as authorized by Water Code Sections 350 and 356. Exceptions to these restrictions may be allowed under the following circumstances:

1. A valid, unexpired building permit has been issued for the project, all grading has been completed, and the construction of structures has begun; or
2. The project is necessary to protect the public’s health, safety, and welfare; or
3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

Sec. 17.10 Variances.

If, due to unique circumstances, a specific requirement of this Article of the Administrative Code would result in undue hardship to a person using District water or to property upon which the District water is used, that is disproportionate to the impacts to the District water users generally or to similar property or classes of water uses, then the person may apply for a variance to the requirements as provided in this section.

The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using District water or to property upon which the District water is used, that is disproportionate to the impacts to the District water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.

A completed appeal shall describe the specific reason(s) the allocation is causing undue hardship, including the following:

1. Commercial buildings that were empty or partially occupied during base period but are now occupied to a greater degree and require more water.
2. A grove with new trees planted a year before the base period began that, in the third year of growth, would need additional water.
3. Agricultural land used for annual crops that had abnormally low irrigation application during the base year.
4. An unexpected emergency line break, or equipment malfunction that has since been fixed.
5. Loss or reduction of an alternative water source, such as a well or pond.
6. Other, with a detailed description.

Sec. 17.10.1 Application.

Application for a variance shall be a form prescribed by Fallbrook Public Utility District.

Sec. 17.10.2 Supporting Documentation.

The application shall be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.

Sec. 17.10.3 Required Findings for Variance.

An application for a variance shall be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the Fallbrook Public Utility District, all of the following:

- A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other Fallbrook Public Utility District customers.
- B. That because of special circumstances applicable to the property or its use, the strict application of this Article would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.
- C. That the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the Fallbrook Public Utility District to effectuate the purpose of this chapter and will not be detrimental to the public interest.
- D. That the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.

Sec. 17.10.4. Approval Authority.

The General Manager or his/her designee shall exercise approval authority and act upon any completed application no later than 20 days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory drought response.

Sec. 17.10.5 Appeals to Fallbrook Public Utility District Board of Directors.

An applicant may appeal a decision or condition of the General Manager on a variance application to the Fallbrook Public Utility District Board of Directors within 10 days of the written decision upon written request for a hearing. The request shall state the grounds for the appeal. Any determination not appealed within ten (10) days is final. At a public meeting, the Fallbrook Public Utility District Board of Directors shall act as the approval authority and review the appeal de novo by following the regular variance procedure. The decision of the Fallbrook Public Utility District Board of Directors is final.

ARTICLE 26 (Renumbered as Article 17
by Resolution 5006)

Sec. 26.6 – Rev. 7/97

Sec. 26.4, Sec. 26.5, Sec. 26.8.2 –
Rev. 10/07

Article 26 revised in its entirety –
6/08

Sec. 26.8.3, 26.9, 26.10 , 26.10.1,
26.10.2, 26.10.3, 26.10.4, 26.10.5,
and addition of Domestic Class and
Multi-Unit Class rates– Rev. 6/09

Sec. 26.8.3 –Rev. 10/09

Sec. 26.8.3 – Rev. 5/11

Sec. 26.8.3 – Rev. 8/14

Sec. 26.11 – Rev 6/15

Secs. 26.1.1, 26.1.2, 26.4, 26.5,
26.8.3, 26.8.5, 26.10, 26.10.1,
26.10.4, 26.10.5, 26.11 – Rev. 3/16

Secs. 26.8.1, 26.8.3 – Rev. 6/16

Secs. 26.8.2, 26.8.3, 26.8.6 – Rev.
12/17

Secs. 26.1.1, 26.1.2, 26.8.5 – Rev.
12/20