

## **ORDINANCE NO. 7**

### **AN ORDINANCE OF THE ARVIN COMMUNITY SERVICES DISTRICT ADOPTING A DROUGHT RESPONSE CONSERVATION PROGRAM**

WHEREAS, article X, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water; and

WHEREAS, California Water Code sections 375 et seq. authorize water suppliers to adopt and enforce a comprehensive water conservation program; and

WHEREAS, adoption and enforcement of a comprehensive water conservation program will allow the District to delay or avoid declaring a water shortage emergency as authorized by California Water Code sections 350 et seq.; and

WHEREAS, the District has adopted a Water Shortage Contingency Plan, which establishes a progressive program for responding to water supply limitations resulting from drought conditions. This Ordinance is intended to be consistent with and to implement the Water Shortage Contingency Plan; and

WHEREAS, the Water Shortage Contingency Plan contains five stages containing actions to be taken to lessen or avoid supply shortages. This Ordinance contains drought response stages that correspond with the Water Shortage Contingency Plan stages; and

WHEREAS the water conservation measures and progressive restrictions on water use and method of use identified by this Ordinance provide certainty to water users and enable the District to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public.

NOW, THEREFORE, the Board of Directors of Arvin Community Services District does ordain as follows:

#### **SECTION 1.0 DECLARATION OF NECESSITY AND INTENT**

(a) This Ordinance establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of

water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.

(b) This Ordinance establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes five stages of drought response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies.

(c) Stage 1 condition drought response measures are voluntary and will be reinforced through local public education and awareness measures that may be funded in part by District. During drought response condition Stages 2 through 5, all conservation measures and water-use restrictions are mandatory and become increasingly restrictive in order to attain escalating conservation goals.

(d) During a Drought Response Stage 2 condition or higher, the water conservation measures and water use restrictions established by this Ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in this Ordinance.

## **SECTION 2.0 DEFINITIONS**

(a) The following words and phrases whenever used in this chapter shall have the meaning defined in this section:

1. “Grower” refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market.
2. “District” means the Arvin Community Services District.
3. “WSCP” means the District’s Water Shortage Contingency Plan in existence on the effective date of this Ordinance and as readopted or amended from time to time, or an equivalent plan of the District to manage or allocate supplies during shortages.
4. “Person” means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, or any other user of water provided by the District.

**SECTION 3.0 APPLICATION**

(a) The provisions of this Ordinance apply to any person in the use of any water provided by the District.

(b) This Ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.

(c) Nothing in this Ordinance is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

(d) The provisions of this Ordinance do not apply to use of water from private wells or to recycled water.

**SECTION 4.0 DROUGHT RESPONSE STAGE 1 – DROUGHT WATCH CONDITION**

(a) A Drought Response Stage 1 condition is also referred to as a “Drought Watch” condition. A Stage 1 condition applies when due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The District’s Board of Directors shall declare the existence of a Drought Response Stage 1 and take action to implement the Stage 1 conservation practices identified in this Ordinance.

(b) During a Stage 1 Drought Watch condition, District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. [The same water conservation practices become mandatory if the District’s Board of Directors declares a Stage 2 Drought Alert condition]:

1. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, roadways, or patios, except when it is necessary to alleviate safety or sanitation hazards.

2. Stop watering unpaved drive approaches, driveways and sidewalks, except when it is necessary to alleviate safety or sanitation hazards.

3. Stop 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, private and public walkways, patios, lots, hardscapes, roadways, or structures.

4. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only.
5. 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.
6. 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.
7. Use re-circulated water to operate ornamental fountains.
8. 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 (over 95 degrees) when additional water is required due to evaporation.
9. Serve and refill water in restaurants and other food service establishments only upon request.
10. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
11. Repair all water leaks within seventy-two (72) hours of notification by the District unless other arrangements are made with the General Manager.
12. Use recycled or non-potable water for construction purposes when available.

(c) During a Drought Response Stage 2 condition or higher, the conservation practices established in a Drought Response Stage 1 condition become mandatory.

## **SECTION 5.0 DROUGHT RESPONSE STAGE 2 – DROUGHT ALERT CONDITION**

(a) A Drought Response Stage 2 condition is also referred to as a “Drought Alert” condition. A Stage 2 condition applies when caused by drought or other reduction in supplies, a consumer demand reduction of up to 25 percent is required in order to have sufficient supplies available to meet anticipated demands. The District’s Board of Directors shall declare the existence of a Drought Response Stage 2 condition and implement the mandatory Stage 2 conservation measures identified in this Ordinance.

(b) All persons using District water shall comply with Stage 1 Drought Watch water conservation practices during a Stage 2 Drought Alert, and shall also comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than the assigned days per week on a schedule established by the District's Board of Directors and posted by the District.

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 5 (b) (1), on the same schedule set forth in section 5 (b) (1) by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

4. Repair all leaks within forty-eight (48) hours of notification by the District unless other arrangements are made with the General Manager.

5. Stop operating ornamental fountains or similar decorative water features unless recirculated water is used.

## **SECTION 6.0 DROUGHT RESPONSE STAGE 3 – DROUGHT CRITICAL CONDITION**

(a) A Drought Response Stage 3 condition is also referred to as a "Drought Critical" condition. A Stage 3 condition applies when the District notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The District's Board of Directors shall declare the existence of a Drought Response Stage 3 condition and implement the Stage 3 conservation measures identified in this Ordinance.

(b) All persons using District water shall comply with Stage 1 Drought Watch and Stage 2 Drought Alert water conservation practices during a Stage 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) assigned days per week on a schedule established by the District's Board of Directors and posted by the District. During the months of December through April, landscape irrigation is limited to no more than twice per week on a schedule established by the District's Board of Directors and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 6 (b) (1), on the same schedule set forth in section 6 (b) (1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. 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 stage under this Ordinance.

4. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems.

5. Repair all leaks within forty eight (48) hours of notification by the District unless other arrangements are made with the General Manager.

(c) The District may establish a water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. 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 on-going 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 an amount established by Resolution for each billing unit of water in excess of 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 Ordinance.

## **SECTION 7.0 DROUGHT RESPONSE STAGE 4 – DROUGHT EMERGENCY CONDITION**

(a) A Drought Response Stage 4 condition is also referred to as a “Drought Emergency” condition. A Stage 4 condition applies when the District’s Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 which requires a demand reduction of up to 50 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350.

(b) All persons using District water shall comply with conservation measures required during Stage 1 Drought Watch, Stage 2 Drought Alert, and Stage 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all 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 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 6 (b) (1) 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 agency 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 well being 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 6 (b) (1);

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 District unless other arrangements are made with the General Manager.

(c) Upon the declaration of a Drought Response Stage 4 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; 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 prior to the provision of a new water meter(s) to the satisfaction of 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.

**SECTION 8.0            DROUGHT RESPONSE STAGE 5 – EXTREME DROUGHT  
EMERGENCY CONDIDTION**

(a)     A Drought Response Stage 5 condition is also referred to as a “Extreme Drought Emergency” condition. A Stage 5 condition applies when the District’s Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 which requires a demand reduction of more than 50 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350.

(b)     All persons using District water shall comply with conservation measures required during Stage 1 Drought Watch, Stage 2 Drought Alert, and Stage 3 Drought Critical conditions Stage 4 Drought Emergency conditions and shall also comply with the following additional mandatory conservation measures:

1.       Upon the declaration of Drought Response Stage 5 condition, the District will suspend consideration of annexations to its service area.

2.       The District may establish a water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. 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 on-going 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 an amount established by Resolution for each billing unit of water in excess of 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 Ordinance.

**SECTION 9.0            CORRELATIONS BETWEEN DROUGHT MANAGEMENT PLAN  
AND DROUGHT RESPONSE STAGE**



The drought response stages identified in this Ordinance correspond with the District’s WSCP as identified in the following table:

<b>Drought Response Stages</b>	<b>Use Restrictions</b>	<b>Conservation Target</b>	<b>WSCP Stage</b>
1 - Drought Watch	Voluntary	Up to 10%	Stage 1
2 - Drought Alert	Mandatory	Up to 25%	Stage 2
3 - Drought Critical	Mandatory	Up to 40%	Stage 3
4 - Drought Emergency	Mandatory	Up to 50%	Stage 4
5 - Extreme Drought Emergency	Mandatory	Above 50%	Stage 5

**SECTION 10.0 PROCEDURES FOR DETERMINATION AND NOTIFICATION OF DROUGHT RESPONSE STAGE**

(a) The existence of a Drought Response Stage 1 condition may be declared by the District’s Board of Directors. The General Manager may publish a notice of the determination of existence of Drought Response Stage 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District may also post notice of the condition at the District’s Office and/or provide direct notice to its customers.

(b) The existence of Drought Response Stage 2 or Stage 3 conditions may be declared by resolution of the District’s Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Drought Response Stage 2 or Stage 3 conditions shall take effect on the tenth (10) day after the date the response stage is declared. Within five (5) days following the declaration of the response stage, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Drought Response Stage 4 or Stage 5 condition may be declared in accordance with the procedures specified in California Water Code sections 351 and 352. The mandatory conservation measures applicable to Drought Response Stage 4 or Stage 5 conditions shall take effect on the tenth (10) day after the date the response stage is declared. Within five (5) days following the declaration of the response stage, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. 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 on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The District’s Board of Directors may declare an end to a Drought Response Stage by the adoption of a resolution at any regular or special meeting held in accordance with State law.

(e) Notwithstanding the foregoing provisions of this section, the District may implement Stages 1, 2 or 3 if required to do so by actions of the State or Federal government by

acknowledging such a requirement at a regular or special meeting of the Board of Directors and the applicable mandatory conservation measures shall take place ten (10) days after the Board of Directors acknowledgement of same or as required by law. Notice of the effective date of the required stage shall be published in a newspaper used for publication of official notices by the District

## **SECTION 11.0      HARSHIP VARIANCE**

(a) If, due to unique circumstances, a specific requirement of this Ordinance would result in undue hardship to a person using District water or to property upon which District water is used, that is disproportionate to the impacts to 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.

(b) 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 District water is used, that is disproportionate to the impacts to 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.

1.      Application. Application for a variance shall be a form prescribed by District and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the District's Board of Directors.

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

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 District, all of the following:

A.      That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other District customers.

B.      That because of special circumstances applicable to the property or its use, the strict application of this Ordinance 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

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.

4. Approval Authority. The General Manager shall exercise approval authority and act upon any completed application no later than 15 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.

5. Appeals to the District's Board of Directors. An applicant may appeal a decision or condition of the General Manager on a variance application to the District's Board of Directors within 10 days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the District's 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 District's Board of Directors is final.

## **SECTION 12.0 VIOLATIONS AND PENALTIES**

(a) Any person, who uses, causes to be used, or permits the use of water in violation of this Ordinance is guilty of an offense punishable as provided herein.

(b) Each day that a violation of this Ordinance occurs is a separate offense.

(c) Administrative fines may be levied for each violation of a provision of this Ordinance as follows:

1. Fifty dollars (\$50) for a first violation.
2. One hundred dollars (\$100) for a second violation of any provision of this Ordinance within one year.
3. Two hundred fifty dollars (\$250) for a third violation any provision of this Ordinance within one year.
4. Five hundred dollars (\$500) for each additional violation of this Ordinance within one year.

(d) Violation of a provision of this Ordinance is subject to enforcement through installation of a flow-restricting device in the meter.

(e) Each violation of this Ordinance may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days or by a fine not exceeding \$1,000, or by both as provided in Water Code section 377.

(f) Willful violations of the mandatory conservation measures and water use restrictions as set forth in Section 7.0 & Section 8.0 and applicable during a Stage 4 Drought Emergency or Stage 5 Extreme Drought Emergency condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code section 356.

(g) All remedies provided for herein shall be cumulative and not exclusive.

**SECTION 13.0 EFFECTIVE DATE**

This Ordinance is effective thirty days after adoption or as otherwise established by State law.

**PASSED AND ADOPTED** this EIGHTEEN day of OCTOBER, 2021 by the following vote:

AYES;

NOES:

ABSTAIN:

ABSENT:

Signed and Adopted this Eighteen day of October, 2021

\_\_\_\_\_  
Maria Alvarez, President of the  
Board of Directors