

**ORDINANCE NO. 3233**

**ORDINANCE OF THE  
MESA WATER DISTRICT BOARD OF DIRECTORS  
MAKING FINDINGS, ADOPTING THE MESA WATER DISTRICT  
WATER SHORTAGE RESPONSE ORDINANCE  
RESCINDING ORDINANCE NO. 26-32 AND TAKING RELATED  
ACTIONS**

WHEREAS, Mesa Water District (Mesa Water or District) is a county water district organized and operating pursuant to the provisions of the laws of the State of California (State or California); and

WHEREAS, water is a limited natural resource and the District desires to use this natural resource in the most efficient manner possible; and

WHEREAS, periodic droughts are a historic fact in the State; and

WHEREAS, Mesa Water has the authority to adopt water conservation requirements and programs to promote and effectuate water conservation and avoid water wastage; and

WHEREAS, the District desires to rescind and supersede its existing Water Conservation Programs and establish an updated Water Shortage Response Ordinance to conform to current State Water Resources Control Board Regulations; and

WHEREAS, the District's service area is located in a region with a mediterranean climate, densely populated demographics and a mixed economic base including residential, commercial, industrial and institutional consumers; and

WHEREAS, the District derives the water that it delivers to Mesa Water customers from local groundwater sources and supplemental water supply imported from outside the District's boundaries; and

WHEREAS, the quality and quantity of supplemental imported water is under the control of other agencies, and may be subject to conditions beyond the control of those other agencies or Mesa Water; and

WHEREAS, pursuant to California Water Code Section 31026, Mesa Water may restrict the use of water that the District provides during any emergency caused by drought, or other threatened or existing water shortage, and prohibit the wastage of water or the use of water Mesa Water provides during such periods, for any purpose other than domestic uses or such other restricted uses as may be determined to be necessary by

the District, and may prohibit use of water Mesa Water provides during such periods for specific uses that Mesa Water may from time to time find to be non-essential; and

WHEREAS, California, including Orange County, experienced significant dry year conditions in 2012-2017, which led local water agencies to declare water shortage conditions that triggered various water conservation actions; and

WHEREAS, Mesa Water has experienced direct impacts on the reliability of available water supplies from time to time; and

WHEREAS, the District's water delivery reliability was increased through customer curtailment in response to demand management measures implemented by Mesa Water; and

WHEREAS, water demand management measures actions were specified in Mesa Water's 2015 Urban Water Management Plan (specifically the Water Shortage Contingency Plan chapter) that adopted Water Shortage Contingency Plan actions based on levels of drought severity, which provided the legal authority for implementation and enforcement through Mesa Water's existing Ordinance No. ~~2632~~; and

WHEREAS, following the end of the most recent drought, the California Legislature modified the Urban Water Management Planning Act in 2018 to include additional water shortage planning requirements; and

WHEREAS, recent legislative changes to the California Water Code, specifically to Water Code Section 10632, currently mandate new elements to be included in public agency Urban Water Management Plans and Water Shortage Contingency Plans, including an annual drought risk assessment, reference to State Water Shortage Levels and Statewide water use prohibitions; and

WHEREAS, the Municipal Water District of Orange County (MWDOC) has adopted a 2020 Urban Water Management Plan that includes water conservation as a necessary and effective component of MWDOC's programs to provide a reliable supply of water to meet the needs of MWDOC's 28 member agencies, including Mesa Water; and

WHEREAS, MWDOC's Urban Water Management Plan also includes a chapter contingency analysis of actions to be taken in response to water supply shortages; and

WHEREAS, this Ordinance is consistent with MWDOC's Urban Water Management Plan and Water Shortage Contingency Plan; and

WHEREAS, the imported water supplies available to Mesa Water through MWDOC are subject to the Water Shortage Allocations determined by the Metropolitan Water District of Southern California (Metropolitan); and

WHEREAS, subsequently, when triggered, MWDOC, as a wholesaler of Metropolitan's water supplies, will be required to curtail deliveries of imported water based on MWDOC's Water Shortage Allocation Plan, which from time to time in the future is expected to be activated when a state of shortage exists; and

WHEREAS, as of July 1, 2021, both MWDOC and Mesa Water ~~are~~ were required to prepare an Annual Water Supply and Demand Assessment and Drought Risk Assessment as part of their respective Urban Water Management Plans for submission to the California Department of Water Resources; and

WHEREAS, annually, by July 1st of each year, beginning the year following the adoption of the 2020 Urban Water Management Plan, MWDOC and Mesa Water are required to monitor, report, and if declared a drought emergency, then notify the California Department of Water Resources, in order to comply with the California Water Code Section 10632.1 reporting requirements; and

WHEREAS, Mesa Water has adopted a Water Shortage Contingency Plan as part of Mesa Water's 2020 Urban Water Management Plan, to establish standards and procedures to enable implementation and enforcement of local water shortage contingency measures; and

WHEREAS, these measures align with the provisions of California Water Code Section 353, which specifies that "when the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection"; and

WHEREAS, the State has also directed Mesa Water to adopt a water conservation program to mitigate demands in California Water Code Section 375; and

WHEREAS, the Board of Directors (Board) of Mesa Water finds and determines that a water shortage or threat of a water shortage may be found to exist based upon the occurrence of one or more of the following conditions or circumstances:

- A. A general water supply shortage due to increased demand and/or limited supplies;
- B. Distribution or storage facilities of Mesa Water or any agency supplying water to the District become inadequate or are restricted;
- C. A major failure of the supply, storage, and/or distribution facilities of Mesa Water or any agency supplying water to the District;
- D. Contamination of the water supply, storage, and/or distribution facilities of Mesa Water or any agency supplying water to the District; and/or

- E. Acts of nature which in the opinion of Mesa Water constitute an emergency situation or which require special water conservation actions.

WHEREAS, prior to the adoption of this Ordinance, the Board has conducted a noticed public hearing to receive public comments concerning the subject matter hereof; and

WHEREAS, the purpose of this Ordinance is to adopt and enact the Water Shortage Response Ordinance within the District's service area.

NOW, THEREFORE, BE IT ORDAINED BY THE MESA WATER DISTRICT BOARD OF DIRECTORS AS FOLLOWS:

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** The Board hereby finds and determines as follows:

- a. A reliable minimum supply of potable water is essential to the public health, safety, and welfare of the people, and economy of the southern California region.
- b. Water management that includes active water use efficiency measures not only in times of drought, but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
- c. California Water Code Section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- d. Mesa Water has the authority, pursuant to California Water Code Sections 353-355, 31000, 31001 and 31026-31029 to take action(s) relative to the use and conservation of water within Mesa Water's service area.
- e. The adoption and enforcement of a permanent Water Shortage Response Ordinance is necessary to help manage the District's potable water supply in the short and long-term and to avoid or minimize the effects of periodic drought and shortage conditions within, or affecting its service area and potable water supplies. Such ordinance is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.
- f. The Board does hereby find that the following circumstances may constitute an emergency condition or a threatened or existing water

shortage condition within or affecting Mesa Water:

- i. A general water supply shortage due to increased demand and/or limited supplies;
- ii. Distribution or storage facilities of Mesa Water or any agency supplying water to the District become inadequate;
- iii. A major failure of the supply, storage and/or distribution facilities of Mesa Water or any agency supplying water to Mesa Water's service area;
- iv. Contamination of the water supply, storage, and/or distribution facilities of Mesa Water or any agency supplying water to Mesa Water's service area; and/or
- v. Acts of nature, which in the opinion of the District constitute an emergency situation.

**Section 3. Ordinance Designation; Purpose; Intent and Integration.**

- a. This Ordinance establishes water management requirements necessary to conserve water, enables effective water supply planning, assures reasonable and beneficial use of water, prevents waste of water, prevents unreasonable use of water, prevents unreasonable methods of use of water within the boundaries of Mesa Water 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.
- c. This Ordinance establishes six Water Shortage Levels that are most often triggered due to drought or water shortage conditions to provide defined response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.
- d. 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. This Ordinance shall not act to repeal, supersede or amend any federal, State or local law, ordinance or regulation relating to protection of water quality or control of drainage or

runoff (including, but not limited to, any and all National Pollution Discharge Elimination System (NPDES) permits or requirements which may be applicable in such instance) or exempt any person or party from compliance therewith.

- e. Mesa Water's prior Water Conservation Programs, and Ordinance No. ~~2632~~, as adopted and supplemented, as applicable, are rescinded and superseded upon this Ordinance becoming effective.

#### **Section 4. Water Shortage Response Ordinance Provisions.**

- a. The Water Shortage Response Ordinance provisions are set forth in Exhibit A to this Ordinance and are incorporated herein by this reference.
- b. The Water Shortage Response Ordinance shall be referred to in Mesa Water's Rules and Regulations for Water Service.
- c. The Board reserves the right to amend, revise, and/or supplement this Ordinance in the future based upon the District's needs, circumstances and requirements.
- d. This Ordinance is adopted by this Board pursuant to the provisions and authority set out in the California Constitution and California law as referenced herein.
- e. All penalties set forth in the Water Shortage Response Ordinance are administrative and regulatory penalties and are not fees or charges for water service or water capacity.

#### **Section 5. California Environmental Quality Act (CEQA) Exemption.**

The Board finds that this Ordinance, the Water Shortage Response Ordinance, and actions taken hereafter pursuant to the Ordinance, are exempt from the California Environmental Quality Act as specific actions necessary to prevent or mitigate an emergency pursuant to 14 California Code of Regulations, Sections 15269, 15273, and 15321, and the applicable statutes of the Public Resources Code.

The General Manager and District Secretary are hereby authorized and directed to file a Notice of Exemption as soon as possible following the adoption of this Ordinance.

#### **Section 6. Terms and Provisions.** The terms and provisions of this Ordinance enacted hereby, shall be subject to, and shall be interpreted pursuant to, State law.



**Section 7. Notice and Provisions.** Notice of the adoption of this Ordinance, and the provisions hereof, have been, and shall be, as applicable, provided as set out in State law, including, but not limited to, the requirements of Water Code Section 31027.

**Section 8. Other Actions.** Mesa Water staff and officers are hereby authorized and directed to take such other and further action(s) as may be reasonably necessary to carry out the determinations, findings and directives set forth herein, within the limits set forth by, and in accordance with, direction of the Board.

**Section 9. Effective Date.** This Ordinance No. ~~32-33~~ shall take effect on ~~July 4~~February 9, ~~2021~~2022.

ADOPTED, ORDAINED, SIGNED, AND APPROVED this ~~10th-9th~~ day of ~~June-February~~ ~~2021-2022~~ by a roll call vote:

AYES: DIRECTORS:  
NOES: DIRECTORS:  
ABSENT: DIRECTORS:  
ABSTAIN: DIRECTORS:

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Marice H. DePasquale  
President, Board of Directors

ATTEST:

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Denise Garcia  
District Secretary

**ORDINANCE NO. ~~32~~33**

**EXHIBIT A**

**ORDINANCE OF THE  
MESA WATER DISTRICT BOARD OF DIRECTORS  
MAKING FINDINGS, ADOPTING THE MESA WATER DISTRICT  
WATER SHORTAGE RESPONSE ORDINANCE  
RESCINDING ORDINANCE NO. ~~26-32~~ AND TAKING RELATED  
ACTIONS**

Mesa Water District  
Water Shortage Response Ordinance

Adopted: ~~June 10~~February 9, ~~2021~~2022



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**Section 1. Title.** This program is designated as the Water Shortage Response Ordinance (Ordinance).

**Section 2. Authority.** The Water Shortage Response Ordinance is adopted pursuant to California law and the provisions of Mesa Water District Ordinance No. ~~3332~~. The General Manager is hereby authorized and directed to implement the provisions of this Water Shortage Response Ordinance as provided for herein.

**Section 3. Definitions.** The following words and phrases whenever used in this Ordinance have the meaning(s) defined in this section:

- a. **"Applicant"** means the person, association, developer, corporation or governmental agency applying for water service.
- b. **"Billing Cycle"** shall mean the billing period in which a customer's water use is measured for purposes of calculating the amount of the water service ~~rates/charges~~**fees** that shall be collected for the water service provided.
- c. **"Board"** means the Board of Directors of Mesa Water~~District~~.
- d. **"Conservation Fee"** means any monetary fee assessed by Mesa Water for violations of ~~this~~**the** Ordinance.
- e. **"Cost"** means the actual cost to ~~Mesa Water~~**the Utility**, including all labor, material, supplies, equipment and miscellaneous items, together with any applicable indirect and general charges, plus the general administrative overhead, in accordance with the accounting practices of ~~the Utility~~**Mesa Water**.
- ~~e.f.~~**f.** **"Customer"** means any person, persons, firm, corporation, association, or agency receiving water or services from Mesa Water.
- ~~f.g.~~**g.** **"Effective Date"** shall mean the date of adoption of this Ordinance as provided by Water Code Section 376.
- ~~g.h.~~**h.** **"Flow Restricting Device"** or **"Flow Restrictor"** means a fitting inserted into the service connection to reduce flow capacity.
- ~~h.i.~~**i.** **"General Manager"** means the duly appointed and acting General Manager of Mesa Water, or an authorized agent.
- ~~i.j.~~**j.** **"Grower"** refers to those engaged in the growing plant materials or

raising livestock.

~~j-k.~~ **"Irrigation Customer"** shall mean a person who, ~~based on~~ ~~according to~~ Mesa Water's District's records, receives water service and has a dedicated irrigation meter for outdoor irrigation of landscaping.

~~k-l.~~ **"Mesa Water" or "District"** means the Mesa Water District, a county water district organized pursuant to California Water Code Sections 33200 and following and operating pursuant to Water Code Sections 30000 and following. References to "Mesa Water" or the "District" also include its Directors, officers, agents and employees, as applicable.

~~l-m.~~ **"Metropolitan Water District (Metropolitan)"** means the Metropolitan Water District of Southern California, which is the wholesale urban water supplier of imported water to Municipal Water District of Orange County.

~~m-n.~~ **"Municipal Water District of Orange County (MWDOC)"** means the regional wholesale urban water supplier of imported water to Orange County.

~~n-o.~~ **"Ordinance"** means Ordinance No. ~~332~~, adopted by the Board, and the components and elements thereof, as such may be amended from time to time.

~~o-p.~~ **"Person"** means any natural person or persons, corporation, public or private entity, governmental agency or institution, including Mesa Water, or any other user of water provided by the District.

~~p-q.~~ **"Potable Water"** means water that is suitable for drinking.

~~q-r.~~ **"Recycled Water"** means the reclamation and reuse of non-potable water for beneficial use as defined in Title 22 of the California Code of Regulations.

~~r-s.~~ **"Service Connection"** means the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter.

~~s-t.~~ **"Single Pass Cooling Systems"** means equipment where water is circulated only once to cool equipment before being disposed of.

~~t-u.~~ **"Summer"** shall mean the calendar months of April, May, June, July, August, and September.

~~u-v.~~ **"Turf"** means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

~~v-w.~~ **"Valve"** means a device used to control the flow of water.

~~w-x.~~ **"Water Allocation"** shall mean the amount of water a residential or irrigation customer may use in a billing cycle during the ~~Ww~~inter and ~~Ss~~ummer.

~~x-y.~~ **"Water Conservation Coordinator"** means the person (who may be an officer or employee of Mesa Water) charged with the principal enforcement of this Ordinance. The Water Conservation Coordinator may be the General Manager or another person so designated in writing ~~by~~ the General Manager.

~~y-z.~~ **"Water Feature"** means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydro zone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the ~~water~~ budget calculation.

~~z-aa.~~ **"Water Flow Restrictor"** means a device that is inserted into the service connection and is designed to limit the water flow capacity.

~~aa-bb.~~ **"Winter"** shall mean the water season that includes the months of October, November, December, January, February, and March.

~~bb-cc.~~ **"WSCP"** means the Mesa Water 2020 Water Shortage Contingency Plan, as adopted by Mesa Water and as such may be amended from time to time.

#### **Section 4. Application.**

a. The provisions of this Ordinance apply to any customer, Person~~;~~ and/or property using water provided by Mesa Water.

- b. The provisions of this Ordinance do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire, and other similar emergency services.
- c. The provisions of this Ordinance do not apply to the use of Recycled Water, with the exception of Section 7(b).
- d. The provisions of this Ordinance do not apply to the use of water by commercial nurseries and commercial growers to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale, with the exception of Section 7(b).
- e. The provisions of this Ordinance do not apply to use of water from private wells.
- f. This Ordinance is intended solely to further the conservation of water.

**Section 5. Procedures for Determination of Water Supply Shortage and Level Implementation.**

- a. Under Water Code Section 10632.1, Mesa Water is required to submit a water shortage assessment “report” to the California Department of Water Resources (DWR) by July 1st of each year.
- b. Mesa Water will follow the written decision-making process defined in the WSCP to assess water supply reliability on an annual basis.
- c. Mesa Water staff will determine if a water shortage exists based on the water shortage criteria and stages defined in the WSCP.
- d. In the event a water shortage is triggered according to the procedures and conditions defined in the adopted WSCP, the Board will declare a shortage according to the defined water shortage levels.
- e. The public will be informed of the shortage according to the Procedures and Protocols for Communication identified in Section 6 of this Ordinance.
- f. Sudden Catastrophic water Supply Shortage. When the General Manager determines that a sudden event has, or threatens to, significantly diminish the reliability or quality of Mesa Water’s water supply, the General Manager may declare a catastrophic water supply shortage and impose whatever emergency water allocation or conservation actions deemed necessary at such time, in the General Manager’s professional judgment, to protect the reliability and quality of Mesa Water’s water supply, until the emergency passes or Mesa Water

takes other action(s). As soon as practicable after the General Manager declares a sudden catastrophic water supply shortage emergency, he shall bring this action to the Board for concurrence.

**Section 6. Procedures and Protocols for Communication.** Upon declaration of a water shortage, Mesa Water will inform all relevant stakeholders, such as customers, the public, interested parties, and local, regional, and State governments, of the effective date of the water shortage response actions associated with the applicable stage according to the communication procedures identified in the WSCP, including:

- a. Any current or predicted shortages as determined by the annual water supply and demand assessment.
- b. Any shortage response actions triggered or anticipated to be triggered by the annual water supply and demand assessment.
- c. Any other relevant communications.

**Section 7. Permanent Water Conservation Requirements – Prohibition Against Waste.** The following water conservation requirements are effective at all times (regardless of any water shortage level) and are permanent. Violations of this section will be considered waste and an unreasonable use of water:

- a. Washing down sidewalks, walkways, driveways, parking areas or other paved surfaces is prohibited, except as is required to dispose of dangerous liquids or alleviate safety or sanitary hazards, and then only by use of a hand-held bucket, pressure washer or hand-held hose equipped with a positive self-closing water shut-off device.
- b. Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, is prohibited, except by use of a hand-held bucket or hand-held hose equipped with a positive self-closing device or water shut-off nozzle. This subsection does not apply to any commercial car washing facility.
- c. The use of water to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures, unless such water is part of a re-circulating system, is prohibited. The only exception may be a water feature currently listed in the National Register of Historic Places, where water use deemed necessary for integrity of the feature.
- d. The use of water to irrigate outdoor landscapes during or within forty-eight (48) hours after measurable rainfall.



- e. The irrigation with potable water of ornamental turf on public street medians.
- f. 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 California Building Standards Commission and the Department of Housing and Community Development.

Mesa Water related requirements include the following limitations on water use under all water supply conditions:

- a. No Installation of Single Pass Cooling Systems: Installation of single pass cooling systems is prohibited in buildings requesting new water service from Mesa Water.
- b. No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems: Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
- c. Commercial Car Wash Systems: All commercial conveyor car wash systems must utilize re-circulating water systems, or must secure a waiver of this requirement from Mesa Water.
- d. **Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within ninety-six (96) hours of notification by Mesa Water-District, or turned off, unless other arrangements are made with the District.**

**Section 8. Correlation between Mesa Water's Water Supply Shortage Levels and DWR's Water Supply Shortage Levels.**

- a. Metropolitan and MWDOW's Water Shortage Contingency Plan follows the six standard water shortage levels corresponding to progressive ranges of up to 10, 20, 30, 40 and 50 percent shortages and greater than 50 percent shortage. ~~{See Water Code Section 10632 (a)(3)(A)}~~.
- b. Mesa Water's water shortage levels are aligned with the State Water Shortage Levels and as also defined in the MWDOW WSCP and therefore comply with Water Code Section 10632 (a)(3) as identified above.

**Section 9. Levels of Declared Water Supply Shortage.** The General Manager is authorized to require or impose reductions in the use of water if such



reductions are necessary to comply with Water Supply Shortage conditions as defined in the WSCP.

The shortage response actions that align with each Level of Water Supply Shortage are defined in the WSCP and include, at a minimum, all of the following:

- a. Locally appropriate supply augmentation actions.
- b. Locally appropriate demand reduction actions to adequately respond to shortages.
- c. Locally appropriate operational changes.
- d. Additional, mandatory prohibitions against specific water use practices that are in addition to state-mandated prohibitions and appropriate to the local conditions.
- e. For each action, an estimate of the extent to which the gap between supplies and demand will be reduced by implementation of the action.
- f. Each elevated shortage level will include the elements of the previous shortage level(s), including the mandatory restrictions on water waste detailed in Section 7, and each elevated shortage level is intended to be more restrictive than the previous level(s).
- g. As deemed necessary, an allocation of water supply under a water supply emergency condition beyond WSCP defined actions may be implemented when water supply conditions dictate necessity.

## **Section 10. Penalties, Violations, and Enforcement.**

### **During Effective Period of Permanent Water Conservation Requirements**

- a. **Penalties:** Penalties for failure to comply with any provisions of the Ordinance while Mesa Water is enforcing the Permanent Water Conservation stage are as follows:
  1. **First Violation:** Mesa Water will issue a written warning and deliver a copy of this Ordinance to the service address and/or by mail.
  2. **Second Violation:** A second violation within the preceding twelve (12) calendar months will receive a second written warning and an attempt to contact the customer of record via telephone.

3. **Third Violation:** A third violation within the preceding twelve (12) calendar months will receive a third written warning with reference to the previous two violations and possibility of future actions including, but not limited to, water flow restriction and discontinued water service.
4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation within the preceding twelve (12) calendar months may result in the installation of a water flow restrictor.
5. **Water Flow Restrictor:** In addition to any written warnings, following the fourth and subsequent violation, Mesa Water may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor until the prohibited actions or practices have been deemed by the District to be satisfactorily discontinued or remedied and for a minimum of forty-eight (48) hours.
6. **Discontinuing Service:** In addition to any actions set out in this Section 10 and the installation of a water flow restrictor, Mesa Water may disconnect a customer's water service for willful violations of mandatory restrictions set forth in this Ordinance.

**During Effective Period of Level 1, Level 2, Level 3, Level 4, Level 5, and Level 6 – Water Supply Shortage(s)**

- b. **Penalties:** Penalties for failure to comply with any provisions of the Ordinance while Mesa Water is enforcing Water Supply Shortage Level 1, Level 2, Level 3, Level 4, Level 5, or Level 6 are as follows:
  1. **First Violation:** A written warning will be issued and a copy of this Ordinance delivered to the service address and/or by mail.
  2. **Second Violation:** A second violation within the preceding twelve (12) calendar months will receive a second written warning and an attempt to contact the customer of record via telephone.
  3. **Third Violation:** A third violation within the preceding twelve (12) calendar months will receive a third written warning with reference to the previous two violations and a Conservation Fee of \$100, or the current charge per the schedule of fees and charges as then in effect, will be assessed to the customer's water account.

4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation within the preceding twelve (12) calendar months will receive an additional written warning with reference to the previous violations and a Conservation Fee of \$200, or the current charge per the schedule of fees and charges as then in effect, will be assessed to the customer's water account.
5. **Discontinuing Service:** In addition to any fines, Mesa Water may disconnect a customer's water service for a willful violation of mandatory restrictions in this Ordinance.
- c. **Cost of Flow Restrictor, Conservation Fees, and Disconnecting Service:** A person or entity that violates this Ordinance is responsible for payment of charges for installing and/or removing any flow restricting device, Conservation Fees, and for disconnecting and/or reconnecting service per the schedule of fees and charges as then in effect. The charge for installing and/or removing any flow restricting device must be paid before the device is removed. Nonpayment thereof will be subject to the same remedies as nonpayment of water rates.
- d. **Separate Offenses:** Each day that a violation of this Ordinance occurs is a separate offense.
- e. **Notice and Hearing:**
  1. Mesa Water will issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action on a particular violation. Such notice shall describe the violation and the date by which corrective action(s) must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal attention the District Secretary no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled by the General Manager, and a written notice of the hearing date will be mailed to the customer at least ten (10) days before the date of the hearing.
- f. **Additional Actions, Penalties:** The Board may prescribe additional action(s) and/or penalties for violation of the prohibited actions or practices described herein. Mesa Water may also implement additional actions or programs to educate its customers, ratepayers, and Persons in the District's service area as to the on-going need to conserve and use water wisely.

- g. **Application of Penalties:** The General Manager or Water Conservation Coordinator, as applicable, shall have discretion as to the application of penalties and enforcement actions set forth herein. The overall intention of this Ordinance is to implement water conservation actions as described herein.
- h. The penalties established and set forth herein are regulatory and administrative in nature. Such penalties are not imposed for water service or water capacity to any particular customer or person.

## **Section 11. Hardship Waiver.**

- a. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this Ordinance would result in undue hardship to a Person using water or to property upon which water is used, then the Person may apply for a waiver to the requirements as provided in this Section.
- b. **Written Finding:** The waiver of the requirements hereof may be granted, or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used.
  - 1. **Application:** An application for a waiver must be on a form prescribed by Mesa Water and is available upon request from the Water Conservation Coordinator [ADWP1]. The application must be submitted to the Water Conservation Coordinator and be accompanied by a written statement of the applicant.
  - 2. **Approval Authority:** The Water Conservation Coordinator, as applicable, must act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver will be promptly notified in writing of any action taken. Unless specified otherwise at the time the waiver is approved, the waiver will apply to the subject property or person during the period of the mandatory water supply shortage condition, or a period not to exceed one (1) calendar year.
  - 3. **Right of Appeal:** Any aggrieved applicant, who remains dissatisfied with the decision of the Water Conservation Coordinator, can appeal, in writing, such final decision to the General Manager. The General Manager shall hear such appeal and render his or her decision. The decision of the General Manager shall be final.

- Section 12. Procedures for Monitoring Compliance and Reporting to the State.** In order to ensure compliance with state reporting requirements and to customer compliance, Mesa Water will ensure the collect, track, and analyze relevant data per the procedures defined in the WSCP.
- Section 13. Reevaluation and Improvement Process of Water Shortage Procedures.** To ensure water shortage risk tolerance is adequate and appropriate water shortage mitigation strategies are implemented as needed, the WSCP will be reviewed and evaluated as defined by the procedures identified in the WSCP.
- Section 14. Other Provisions.** Mesa Water may provide water efficiency devices either directly or through supported programs. Such devices should remain within the District's service area at all times. Devices provided by the District should be used with the intent to conserve water and not be modified in any way or sold.
- Section 15. Severability.** If any section, subsection, sentence, clause or phrase in this Ordinance is for any reason held invalid, the validity of the remainder of the Ordinance will not be affected. The Board hereby declares it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases is, ~~or may be~~, declared invalid.