

## **ORDINANCE NO. 26**

### **ORDINANCE OF THE MESA WATER DISTRICT BOARD OF DIRECTORS ADOPTING THE MESA WATER DISTRICT WATER CONSERVATION AND WATER SUPPLY EMERGENCY PROGRAM RESCINDING ORDINANCE NOS. 8, 19, 24**

WHEREAS, the Mesa Water District (Mesa Water® or District) is a county water district organized and operating according to California law; 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, Mesa Water District has the authority to adopt water conservation requirements and programs to promote and effectuate wise water use and avoid water wastage; and

WHEREAS, the Board of Directors (Board) of Mesa Water District has previously adopted, and supplemented, Ordinance No. 8 adopting an Emergency Water Conservation Program, which was adopted on March 21, 1991 (Ordinance No.8); and

WHEREAS, Ordinance No. 8 was further supplemented by the adoption of Ordinance No. 19 on December 10, 2007, and Ordinance No. 24 on August 28, 2014 (Ordinance No. 8, as supplemented, Ordinance Nos. 19 and 24 are collectively in certain cases referred to herein as the "Prior Ordinances"); and

WHEREAS, the District desires to repeal its existing Water Conservation Programs and establish an updated and consolidated Water Conservation and Water Supply Emergency Program (Conservation Program) to conform to additional State Water Resources Control Board (SWRCB) Regulations; and

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

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

WHEREAS, Mesa Water District derives the water which it delivers to its customers from local groundwater and supplemental waters imported from outside District 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 District; and

WHEREAS, pursuant to California Water Code Section 31026, Mesa Water District may restrict the use of water it provides during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of water or the use of water it 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 it provides during such periods for specific uses which it may from time to time find to be non-essential; and

WHEREAS, pursuant to the applicable provisions of California law, Mesa Water District is required to periodically prepare and update an Urban Water Management Plan in order to address certain water supply and planning requirements; and

WHEREAS, Water Code Section 10632 requires the Urban Water Management Plan to provide an urban water shortage contingency analysis, which includes stages of action to be undertaken by an urban water supplier in response to water supply shortages, including up to a 50 percent reduction in water supply, and an outline of specific water supply conditions which are applicable to each stage; and

WHEREAS, pursuant to California Water Code Sections §§31020, and 375-377, inclusive, Mesa Water District may establish additional guidelines, surcharges, cost recovery systems, enforcement procedures, and other rules and regulations to assist in the conservation of water; and

WHEREAS, the Board of Directors of Mesa Water District 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 District 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 District or any agency supplying water to the District.
- D. Contamination of the water supply, storage, and/or distribution facilities of Mesa Water District or any agency supplying water to the District.
- E. Acts of nature which in the opinion of Mesa Water District 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 Conservation Program 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 District has the authority, pursuant to California Water Code Sections 31026-31029 to take action(s) relative to the use and conservation of water within its service area.
- e. The adoption and enforcement of a permanent water conservation program is necessary to help to 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 program 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 District:
  - i. A general water supply shortage due to increased demand and/or limited supplies.

- ii. Distribution or storage facilities of Mesa Water District 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 District or any agency supplying water to its service area.
- iv. Contamination of the water supply, storage, and/or distribution facilities of Mesa Water District or any agency supplying water to its service area.
- v. Acts of nature which in the opinion of the District constitute an emergency situation.

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

- a. The purpose of the Conservation Program enacted by this Ordinance is to establish a water conservation and water supply emergency program that will reduce water consumption within the District's service area through water conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the District's service area to avoid and minimize the effect and hardship of water shortages to the greatest extent possible.
- b. This Conservation Program enacted by this Ordinance establishes permanent water conservation standards intended to alter behavior related to water use efficiency at all times and further establishes three levels of water supply shortage 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 as determined by the Board.
- c. This Ordinance, and the Conservation Program enacted hereby, 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, and the Conservation Program enacted hereby, 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 NPDES permits or requirements which

may be applicable in such instance) or exempt any person or party from compliance therewith.

- d. Mesa Water's prior Water Conservation Programs, as adopted, supplemented, and amended pursuant to the Prior Ordinances, are rescinded and superseded upon this Ordinance becoming effective.

**Section 4. Conservation Program Provisions.**

- a. The Conservation Program provisions are set forth in Exhibit A to this Ordinance and are incorporated herein by this reference.
- b. The Conservation Program 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 and/or the Conservation Program provisions in the future based upon the District's needs, circumstances and requirements.
- d. This Ordinance and the Conservation Program are 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 Conservation Program are administrative and regulatory penalties and are not fees or charges for water service or water capacity.

**Section 5. CEQA Exemption.**

The Board finds that this Ordinance, the Water Conservation and Water Supply Emergency Program (Conservation Program), and actions taken hereafter pursuant to the Conservation Program 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 is 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, and the Conservation Program 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, shall be provided as set out in State law, including, but not limited to, Water Code Section 31027.

**Section 8. Other Actions.** Mesa Water District 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, and in the Conservation Program enacted hereby, within the limits set forth by, and in accordance with, direction of the Board.

**Section 9. Effective Date.** This Ordinance No. 26, and the Conservation Program enacted hereby, shall take effect on May 14, 2015.

ADOPTED, SIGNED, AND APPROVED this 14th day of May 2015 by a roll call vote:

AYES:	DIRECTORS: Atkinson, Bockmiller, Fisler, Temianka
NOES:	DIRECTORS:
ABSENT:	DIRECTORS: Dewane
ABSTAIN:	DIRECTORS:



Shawn Dewane  
President, Board of Directors

ATTEST:



Coleen L. Monteleone  
District Secretary

**ORDINANCE NO. 26**

**EXHIBIT A**

**ORDINANCE OF THE  
MESA WATER DISTRICT BOARD OF DIRECTORS  
ADOPTING THE MESA WATER DISTRICT  
WATER CONSERVATION AND  
WATER SUPPLY EMERGENCY PROGRAM  
RESCINDING ORDINANCE NOS. 8, 19, 24**

Mesa Water District  
Water Conservation and  
Water Supply Emergency Program

Adopted: May 14, 2015

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**Section 1:** **Title.** This program is designated as the Water Conservation and Water Supply Emergency Program (Conservation Program).

**Section 2.** **Authority.** The Conservation Program is adopted pursuant to California law and the provisions of Mesa Water District Ordinance No. 26. The General Manager is hereby authorized and directed to implement the provisions of this Conservation Program as provided for herein.

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

- a. **“Board”** means the Board of Directors of Mesa Water District.
- b. **“Conservation Program”** means the Mesa Water District Water Conservation and Water Supply Emergency Program.
- c. **“Conservation Fee”** means any monetary fee assessed by Mesa Water District for violations of the Conservation Program.
- d. **“Customer”** means any person, persons, firm, corporation, association, or agency receiving water or services from Mesa Water District.
- e. **“General Manager”** means the duly appointed and acting General Manager of the Mesa Water District, or an authorized agent.
- f. **“Landscape Irrigation System”** means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.
- g. **“Large Landscape Areas”** means a lawn, landscape, or other vegetated area, or combination thereof, equal to more than 5,000 square feet of irrigable land.
- h. **“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.
- i. **“Person”** means any natural person or persons, corporation, public or private entity, governmental agency or institution, including Mesa Water District, or any other user of water provided by the District.
- j. **“Potable Water”** means water that is suitable for drinking.

- k. **“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.
- l. **“Single Pass Cooling Systems”** means equipment where water is circulated only once to cool equipment before being disposed.
- m. **“Water Conservation Coordinator”** means the person (who may be an officer or employee of Mesa Water District) charged with the principal enforcement of this Conservation Program. The Water Conservation Coordinator may be the General Manager or another person so designated in writing by the General Manager.
- n. **“Water Flow Restrictor”** means a device that is inserted into the service connection and is designed to limit the water flow capacity.

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

- a. The provisions of this Conservation Program apply to any customer, Person, and property using water provided by Mesa Water District.
- b. The provisions of this Conservation Program 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 Conservation Program do not apply to the use of Recycled Water, with the exception of Sections 6(b), 6(d), 6(m), 6(n), 7(b)(2), 8(b)(2), and 9(b)(2).
- d. The provisions of this Conservation Program 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 6(b).
- e. This Conservation Program is intended solely to further the conservation of water.

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

The existence of a Level 1, Level 2 or Level 3 Water Supply Shortage condition may be declared by resolution adopted by the Board at a regular, adjourned regular, or special Board meeting.

The Board shall determine the extent of the Water Supply Shortage condition, and the corresponding conservation required through the implementation and/or termination of particular levels, which may be made upon recommendation by the General Manager.

In the event of an extreme emergency, requiring immediate action that cannot be delayed until the next regular, adjourned regular, or special Board meeting, the General Manager shall determine the extent of the conservation required and implement the appropriate level necessary to achieve the required level of conservation. In such event, the General Manager shall notify the Board as soon thereafter as practical and shall consult with the Board President with regard to the calling of an emergency meeting of the Board.

The General Manager will provide a plan to the Board that specifies a timeline for noticing of customers and the implementation of the Water Supply Shortage Level determined by the Board. In addition, the Board of Directors shall be notified at the next regular, adjourned regular, or special Board Meeting of any action taken by the General Manager under this Conservation Program.

A Water Supply Shortage Level shall be deemed to be effective upon the date of adoption and shall remain in place until rescinded, superseded, or modified by further action of the Board.

**Section 6: Permanent Water Conservation Requirements – Prohibition Against Waste.**

This Section is intended to provide for up to a 10 percent reduction in water usage.

The following water conservation requirements shall be effective at all times as prescribed by the Board and shall be permanent. Violations of this Section constitute waste and an unreasonable use of water.

- a. **Limits on Watering Hours:** Watering or irrigating of lawn, landscape, or other vegetated area with potable water is prohibited between the hours of 8:00 a.m. and 5:00 p.m. Pacific Standard Time on any day. Hand-held watering cans, buckets, or similar containers reasonably used to convey water for irrigation purposes are not subject to these time restrictions. Similarly, a hand-held hose equipped with a fully functioning, positive self-closing water shut-off nozzle or device may be used during the otherwise restricted period. If necessary, and for very short periods of time for the express purpose of adjusting or repairing it, one may operate an irrigation system during the otherwise restricted period.

- b. **No Excessive Water Flow or Runoff:** No person shall cause or allow watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive runoff from the property. Additionally, to the extent prohibited by any Statewide statute, or regulation adopted by any State agency with jurisdiction to adopt such regulations, including, but not limited to, the State Water Resources Control Board, no person shall cause or allow water to flow or runoff their property onto adjacent property, non-irrigated areas, private and public walkways, driveways, roadways, gutters or ditches, parking lots, or structures.
- c. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a fully functioning, positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.
- d. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the District, is prohibited.
- e. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
- f. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a fully functioning, positive self-closing water shut-off nozzle or device that causes it to cease dispensing water immediately when not in use. This subsection does not apply to any commercial car washing facility.
- g. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold,

served, or offered for sale, are encouraged not to provide drinking water to any person unless expressly requested.

- h. **Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services:** Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments shall prominently display notice of this option in each bathroom using clear and easily understood language.
- i. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service from Mesa Water District.
- j. **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.
- k. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.
- l. **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 District.
- m. **Recycled Water Use Required if Available:** After the District has provided to the user an analysis demonstrating that Recycled Water is available, cost effective, and safe for the intended use, and the user has been given a reasonable time to make the conversion to recycled water, the use of potable water, is prohibited.
- n. **Water Recycling – New Service:** Prior to the connection of any new commercial, industrial, or multi-residential water service, the District shall perform an evaluation to determine whether recycled water is available, cost effective, and safe for the intended use to supply all or some of the water needed by the new user. If available, cost effective, and safe for the intended use, recycled water must be used.

**Section 7: Level 1 Water Supply Shortage: Water Alert.**

This Section is intended to provide for up to a 20 percent reduction in water usage.

- a. A Level 1 Water Supply Shortage exists when Mesa Water District determines, in its sole discretion, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration of a Level 1 Water Supply Shortage condition, the District will implement all of the mandatory Level 1 conservation measures identified in this Section.
- b. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section 6, the following water conservation requirements shall apply during a declared Level 1 Water Supply Shortage as prescribed by the Board:
  - 1. **Designated Watering Days:** Watering or irrigating of lawn, landscape, or other vegetated area is limited up to a maximum of three (3) days per week on a schedule established and posted by Mesa Water District by a Resolution of the Board of Directors. This provision does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system, and then only while under the supervision of a competent person.
  - 2. **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 seventy-two (72) hours of notification by Mesa Water District, or turned off, unless other arrangements are made with the District.
  - 3. **Irrigation During Rain Events:** Irrigation is prohibited during rain events.
- c. **Other Measures Available for Consideration:** In addition to the conservation requirements specified in Sections 6 and 7(b), other measures are available for additional consideration by the Board that may be necessary to achieve immediate or short term water conservation, and are referenced in Section 10.

**Section 8. Level 2 Water Supply Shortage: Water Warning.**

This Section is intended to provide for up to a 30 percent reduction in water usage.

- a. A Level 2 Water Supply Shortage exists when Mesa Water District determines, in its sole discretion, that due to drought or other water

supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration of a Level 2 Water Supply Shortage condition, the District will implement all of the mandatory Level 2 conservation measures identified in this Section.

b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Sections 6 and 7, the following additional water conservation requirements shall apply during a declared Level 2 Water Supply Shortage as prescribed by the Board:

1. **Designated Watering Days:** Watering or irrigating of lawn, landscape, or other vegetated area is limited up to a maximum of two (2) days per week on a schedule established and posted by Mesa Water District by a Resolution of the Board of Directors. This provision does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system, and then only while under the supervision of a competent person.
2. **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 forty-eight (48) hours of notification by Mesa Water District, or turned off, unless other arrangements are made with the District.
3. **Limits on Filling Ornamental Fountains, Lakes, and Ponds:** Filling or re-filling ornamental fountains, lakes, and ponds is prohibited, except to the extent needed to sustain aquatic life, provided that such animals have been actively managed within the water feature prior to declaration of a supply shortage level under this Conservation Program.

c. **Other Measures Available for Consideration:** In addition to the conservation requirements specified in Sections 6, 7, and 8, other measures are available for additional consideration by the Board that may be necessary to achieve immediate or short term water conservation, and are referenced in Section 10.

## **Section 9. Level 3 Water Supply Shortage – Water Emergency.**

This Section is intended to provide for up to a 50 percent reduction in water usage.

- a. A Level 3 Water Supply Shortage condition is also referred to as an “Emergency” condition. A Level 3 condition exists when Mesa Water District declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the District may implement all of the mandatory Level 3 conservation measures identified in this section as prescribed by the Board.
- b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Sections 6, 7, and 8, the following water conservation requirements shall apply during a declared Level 3 Water Supply Shortage Emergency:
  1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape, or other vegetated area is prohibited. This restriction does not apply to the following categories of use:
    - i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device.
    - ii. Maintenance of existing landscape necessary for fire protection.
    - iii. Maintenance of existing landscape for soil erosion control.
    - iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species.
    - v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, and school grounds, provided that such irrigation does not exceed a maximum of two (2) days per week according to the schedule established in Section 8(b)(1) and time restrictions in Section 6(a).
    - vi. Actively irrigated environmental mitigation projects.



2. **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 twenty four (24) hours of notification by Mesa Water District, or turned off, unless other arrangements are made with the District.
3. **Car Washing at Commercial Facilities Only:** Washing of motor vehicles, trailers, boats, aircraft and other types of mobile equipment shall be done only at a commercial car wash with water recycling facilities. No restrictions apply where the healthy, safety, and welfare of the public is contingent upon frequent vehicle cleaning, such as with refuse trucks and vehicles used to transport food and perishables.
4. **No Initial Filling or Re-Filling of Swimming Pools & Spas:** Filling and Re-Filling of residential swimming pools or outdoor spas with water is prohibited.
5. **No New Potable Water Service:** No new potable water service will be provided, no new temporary meters or permanent meters will 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) will be issued, except under the following circumstances:
  - i. A valid, unexpired building permit has been issued for the project; or
  - ii. The project is necessary to protect the public health, safety, and welfare; or
  - iii. A parcel that has or previously had a water meter; or
  - iv. 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 the District.

This provision does not preclude the resetting or turn-on of meters to provide continuation of water service or the restoration of service that has been interrupted prior to declaration of a supply shortage level under this Conservation Program.

- c. **Other Measures Available for Consideration:** In addition to the conservation requirements specified in Sections 6, 7, 8, and 9, other measures are available for additional consideration by the Board that

may be necessary to achieve immediate or short term water conservation, and are referenced in Section 10.

#### **Section 10. Other Conservation Measures Available for Implementation.**

The following water conservation measures may be implemented at any Water Supply Shortage Level, in addition to, or supplementary to, the Water Conservation Measures set out in Sections 6-9, inclusive, pursuant to the directive(s) of the Board.

- a. **Large Landscape Areas – Rain Sensors:** Large landscape areas, such as parks, cemeteries, golf courses, school grounds, and playing fields, that use landscape irrigation systems to water or irrigate, must use landscape irrigation systems with rain sensors that automatically shut off such systems during periods of rain or irrigation timers which automatically use information such as evapotranspiration sensors to set an efficient water use schedule.
- b. **Recycled Water for Construction Purposes:** Recycled or non-potable water must be used for construction purposes when available, feasible, and cost-effective.
- c. **Water Conserving Plumbing Standards – Change in Service:** Upon the establishment of new water service or a new customer of record for an existing service, all existing plumbing fixtures (including but not limited to: toilets, showerheads, and faucets) must be retrofitted exclusively with water-conserving plumbing fixtures. The water use standards permitted will be those current standards approved by the California Energy Commission.
- d. **Irrigation During Rain Events:** The application of potable water to outdoor landscapes during and up to forty-eight (48) hours after measurable rainfall is prohibited.
- e. **Irrigated Medians:** The use of potable water to irrigate ornamental turf on public street medians is prohibited.
- f. **Irrigated Parkways:** The use of potable water to irrigate ornamental turf on public street parkways is prohibited.
- g. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.

- h. **Other Measures:** Other measures as may be required by the State or deemed necessary by the Board.

## **Section 11. Penalties, Violations, and Enforcement.**

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

- a. **Penalties:** Penalties for failure to comply with any provisions of the Conservation Program while Mesa Water District is enforcing the Permanent Water Conservation stage are as follows:
  - 1. **First Violation:** Mesa Water District will issue a written warning and deliver a copy of this Conservation Program 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, Mesa Water District 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 fines and the installation of a water flow restrictor, Mesa Water District may disconnect a customer's water service for willful violations of mandatory restrictions in this Conservation Program.

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

- b. **Penalties:** Penalties for failure to comply with any provisions of the Conservation Program while Mesa Water District is enforcing Water Supply Shortage Level 1, Level 2, or Level 3 are as follows:
1. **First Violation:** A written warning will be issued and a copy of this Conservation Program 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 District may disconnect a customer's water service for a willful violation of mandatory restrictions in this Conservation Program.
- c. **Cost of Flow Restrictor, Conservation Fees, and Disconnecting Service:** A person or entity that violates this Conservation Program 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 Conservation Program occurs is a separate offense.

e. **Notice and Hearing:**

1. Mesa Water District 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 District 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 Conservation Program 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 12. Hardship Waiver.**

a. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this Conservation Program 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 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 District and is available upon request from the Water Conservation Coordinator. 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 13. 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 14. Severability.** If any section, subsection, sentence, clause or phrase in this Conservation Program is for any reason held invalid, the validity of the remainder of the Conservation Program will not be affected. The Board hereby declares it would have passed this Conservation Program and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases is declared invalid.