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October 28, 2019

Board of Directors
Triunfo Water & Sanitation District
Ventura County, California

DISCUSSION OF ORDINANCE NO. TSD-301 – REPEATED VIOLATIONS OF THE WATER CONSERVATION ORDINANCE

Recommendation

The Triunfo Water & Sanitation District (District) Board adopted Ordinance No. TSD-301 effective January 1, 2019, establishing policies and procedures for water conservation. This Ordinance establishes practices to maintain compliance with California Water Code requirements for a comprehensive water conservation program which established requirements to reduce water consumption and conserve supplies. A key component of the Ordinance is related to repairs for leaks or malfunctions within 72-hours of being detected and the fines and penalties for repeat violations.

The District currently has several customers who refuse to acknowledge and repair system identified leaks and have received a fifth (5th) violation notice and fine. The Ordinance calls for either a flow restrictor or termination of service as the next step (Section 10.B). Staff is requesting the Board discuss these options and provide direction to bring these accounts into compliance.

Please contact me at 805-658-4621 or email marknorris@vrsd.com if you have any questions or need additional information.

REVIEWED AND APPROVED:

A blue ink signature of Mark Norris, written in a cursive style, is positioned above a horizontal line. Below the line, the text "Mark Norris - General Manager" is printed in a black sans-serif font.

Mark Norris - General Manager

Attachment: TSD Ordinance No. TSD-301 (Adopted 1/1/19)

TRIUNFO SANITATION DISTRICT

**ORDINANCE NO. TSD-301 (Adopted 11/26/18)
ESTABLISHING POLICIES AND PROCEDURES FOR
WATER CONSERVATION**

WHEREAS, 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;

WHEREAS, Southern California is a semi-arid region and is largely dependent upon imported water supplies. A growing population, environmental concerns and other factors in other parts of the State and western United States, make the region highly susceptible to water supply reliability issues;

WHEREAS, careful water management that includes active water conservation measures not only in times of drought, but at all times, is essential to ensure reliable minimum supply of water to meet current and future water supply needs;

WHEREAS, Article X, Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof;

WHEREAS, California Water Code Section 375 et seq. requires water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies;

WHEREAS, California Water Code section 350 et seq. authorizes any public entity, including a special district, to declare a water shortage emergency and, upon declaration of that emergency, adopt regulations and restrictions on the delivery and consumption of water in order to conserve water resources during the period of the emergency and until the supply of water available for distribution by the suppliers has been replenished or augmented;

WHEREAS, the adoption and enforcement of water conservation and supply shortage program is necessary to manage the District's potable water supply in the short- and long-term and to avoid or minimize the impacts of drought and shortage within the District. Such a program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare; and

WHEREAS, based upon the above findings, the District's legal counsel advises, and the Board finds, that actions taken pursuant to this ordinance are categorically exempt from CEQA according to 14 California Code of Regulations 15301 and 15307.

NOW, THEREFORE, the Board hereby ordains as follows:

SECTION 1. SHORT TITLE

This Ordinance shall be known as the TSD Water Conservation Ordinance.

SECTION 2. DEFINITIONS

The following words and phrases whenever used in this ordinance shall have the meaning defined in this section:

- a. "Account" means a District record that identifies the meters through which water is served to a particular property, the name of the person requesting the service, the location of the property and the person responsible for payment. Each such Account is identified by an account number.
- b. "District" or "TSD" means the Triunfo Sanitation District.
- c. "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.
- d. "Person" means any human being, corporation, public or private entity, governmental agency or institution or any other user of water provided by the District.
- e. "Potable Water" means water which is suitable for drinking.
- f. "Recycled Water" means as defined in Title 22, Chapter 4 of the California Administrative Code, water which, as a result of tertiary treatment of domestic and industrial wastewater, is suitable for a district beneficial use or a controlled use that otherwise would not occur.

SECTION 3. APPLICATION OF ORDINANCE

- A. The provisions of this ordinance apply to any person in the use of any potable water provided by the District.
- 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.
- 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.
- E. 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 state based ordinances and stormwater management plans.

SECTION 4. PERMANENT WATER CONSERVATION REQUIREMENTS

The following water conservation requirements are effective at all times and shall be permanent. Violation of this section shall be considered waste and an unreasonable use of water.

- A. **Watering Hours:** Watering or irrigation of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 5:00 p.m. on any day except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, or for very short periods for the express purpose of adjusting or repairing an irrigation system.
- B. **Watering Duration:** Limit irrigation system watering to no more than 15 minutes per day per station. This does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than 2 gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.
- C. **Run-Off:** Application of water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures is prohibited.
- D. **Washing Vehicles:** Use of a hose that dispenses water to wash a motor vehicle is prohibited, except where a hose is fitted with a shut off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
- E. **Driveways and Sidewalks:** Application of potable water directly to driveways and sidewalks is prohibited.
- F. **Ornamental Fountains and Decorative Water Features:** Use of potable water in an ornamental fountain or other decorative water feature is prohibited, except where the water is part of a recirculating system or the fountain is registered on the National Register of Historic Places.
- G. **Rain Events:** Application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one-fourth of one inch of rain is prohibited.
- H. **Eating/Drinking Establishments:** Serving of drinking water other than upon request in an eating or drinking establishment is prohibited during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions. Establishments include restaurants, hotels, cafes, cafeterias, bars or other public places where food or drink are served or purchased.
- I. **Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be repaired within five (5) days of observation and notification by the District.

SECTION 5. STAGE 1 WATER SUPPLY SHORTAGE

A. Stage 1

A Stage 1 Water Supply Shortage condition exists when the Board of Directors determines, in its sole discretion, that due to drought or other supply reductions, a consumer demand reduction is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon the declaration of a Stage 1 Water Supply Shortage condition, the District shall implement the mandatory Stage 1 conservation measures identified in this section.

B. Stage 1 Water Conservation Measures

In addition to the prohibited uses of water identified under PERMANENT WATER CONSERVATION REQUIREMENTS, the following water conservation requirements apply during a declared Stage 1 Water Supply Shortage:

1. **Watering Days:** Watering or irrigation of lawn, landscape or other vegetated area with potable water is limited to 3 days per week. During the months of November through March, watering or irrigation of lawn, landscape or other vegetated area with potable water is limited to no more than 1 day per week. This provision does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than 2 gallons of water per hour. This provision does not apply to use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, or for very short periods for the express purpose of adjusting or repairing an irrigation system.
2. **Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be repaired within seventy two (72) hours of observation and notification by the District.
3. **Recycled Water Use for Construction:** Use only recycled water for construction site dust control, consolidation of backfill, if available.
4. **Other Prohibited Uses:** The Board of Directors may implement other prohibited water uses as determined by the District after notice to customers.

SECTION 6. STAGE 2 WATER SUPPLY SHORTAGE

A. Stage 2

A Stage 2 Water Supply Shortage condition exists when the Board of Directors determines, in its sole discretion, that due to drought or other supply reductions a consumer demand reduction is required in order to ensure that sufficient supplies will be available to meet anticipated demands. Upon the declaration of a Stage 2 Water Supply Shortage condition, the District shall implement the mandatory Stage 2 conservation measures identified in this section.

B. Stage 2 Water Conservation Measures

In addition to the prohibited uses of water identified under STAGE 1 WATER SUPPLY SHORTAGE, the following additional water conservation requirements apply during a declared Stage 2 Water Supply Shortage:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is restricted in accordance with the allotments in the latest version of the Triunfo Sanitation District Oak Park Water Shortage Contingency Plan (Water Shortage Contingency Plan). Watering or irrigation of lawn, landscape or other vegetated area with potable water is limited to 2 days per week. During the months of November through March, watering or irrigation of lawn, landscape or other vegetated area with potable water is limited to no more than 1 day per week. This provision does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than 2 gallons

of water per hour. This provision does not apply to use of a hand-held bucket or similar container, or for very short periods for the express purpose of adjusting or repairing an irrigation system.

2. **Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be repaired within forty eight (48) hours of observation and notification by the District.
3. **Ornamental Fountains and Decorative Water Features:** No filling, cleaning and/or refilling of decorative fountains, ornamental lakes or ponds 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 this supply shortage stage.
4. **Washing Vehicles:** Residential car washing prohibited. Use car washes available with water recycling systems.
5. **Pools:** The filling of any new or existing residential pools or outdoor spas is prohibited.
6. **New Grass:** Planting of new turf grass is prohibited.
7. **Mist Coolers:** Outdoor evaporative mist coolers are prohibited.
8. **Line Flushing:** Main line flushing is allowed for emergency purposes only.
9. **Other Prohibited Uses:** The District may implement other prohibited water uses as determined by the Board of Directors, after notice to Customers.

C. Water Allocations/Water Budget

The District will implement the water allocation plan in the most recent Water Shortage Contingency Plan for residential customers. The District must provide notice of the allocation by including it in the regular billing statement to which the District customarily mails the billing statements for on-going water service. Penalties will be levied on Accounts that exceed their water allocation.

SECTION 7. STAGE 3 WATER SUPPLY SHORTAGE

A. Stage 3

A Stage 3 Water Supply Shortage condition is also referred to as an "Emergency" condition. A Stage 3 Water Supply Shortage condition exists when the Board of Directors declares a water shortage emergency in a manner and upon the grounds set forth in California Water Code Section 350 et seq.

Upon the declaration of a Stage 3 Water Supply Shortage condition pursuant to California Water Code Section 350 et seq., the District shall implement the mandatory Stage 3 conservation measures identified in this section.

B. Stage 3 Water Conservation Measures

In addition to the prohibited uses of water identified under STAGE 2 WATER SUPPLY SHORTAGE, the following water conservation requirements apply during a declared Stage 3 Water Supply Shortage Emergency:

1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is restricted in accordance with the allotments in the Water Shortage Contingency Plan for residential customers. This restriction does not apply to the use of recycled water or to the following categories of use, subject to Section 9 (Health and Safety Waiver):
 - a. Maintenance of existing landscape necessary for fire protection;
 - b. Maintenance of existing landscape for soil erosion control;
 - c. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;
 - d. Maintenance of landscape within active public parks and playing fields, daycare centers, golf course greens, and school grounds, provided that such irrigation does not exceed 2 days per week;
 - e. Actively irrigated environmental mitigation projects.
2. **Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be repaired within twenty four (24) hours of observation and notification by the District.
3. **Other Prohibited Uses:** The District may implement other prohibited water uses as determined by the Board of Directors, after notifying customers.

C. Water Allocations/Water Budget

The District will implement the water allocation plan in the most recent Water Shortage Contingency Plan for residential customers. The District must provide notice of the allocation by including it in the regular billing statement to which the District customarily mails the billing statements for on-going water service. Penalties will be levied on Accounts that exceed their water allocation.

SECTION 8. PROCEDURES FOR DETERMINATION/NOTIFICATION OF WATER SUPPLY SHORTAGE

A. Determination And Notification Of Stage 1 or Stage 2 Water Supply Shortage

The existence of a Stage 1 or Stage 2 Water Supply Shortage condition will be declared by resolution of the Board adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Stage 1 and Stage 2 Water Supply Shortage conditions, respectively, shall take effect on the tenth day after the date the shortage condition is declared. Within five days following the declaration of the shortage

condition, the District shall publish a copy of the resolution once in a newspaper used for publication of official notices.

If the Board of Directors establishes a water allocation, the District shall provide notice of the allocation by including it in the regular billing statement or by another mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. A water allocation shall be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

B. Determination And Notification Of Stage 3 Water Supply Shortage

The existence of a Stage 3 Water Supply Shortage condition may be declared in accordance with the requirements and procedures specified in California Water Code Section 350 et seq.

The mandatory conservation measures applicable to a Stage 3 Water Supply Shortage condition shall take effect immediately upon the Board of Directors declaration of a "Water Shortage Emergency" pursuant to California Water Code Section 350 et seq. As soon as practicable following the Board's declaration of a "Water Shortage Emergency," the District shall publish a copy of the declaration once in a newspaper used for publication of official notices.

If the Board of Directors establishes a water allocation, the District shall provide notice of the allocation by including it in the regular billing statement or by another mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. A water allocation shall be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

SECTION 9. HEALTH AND SAFETY WAIVER

A. Threat to Health and Safety

If a specific requirement of this ordinance would directly and negatively impact the health and safety of a water user permanently residing on property subject to this ordinance, then the property owner may apply for a waiver of the requirements of this ordinance as provided in this section.

B. Written Finding

The waiver may be granted or conditionally granted to the property owner only upon a written finding by the General Manager of the existence of facts demonstrating a direct, negative impact on the health and safety of the water user.

1. **Application:** Application for a health and safety waiver shall be on a form prescribed by the District and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the Board.
2. **Supporting Documentation:** The application must include factual evidence demonstrating that the enforcement of the specific requirements of this ordinance will result in a direct and negative impact on the health and safety of a water user permanently residing on the property due to unique circumstances specific to that water user. That evidence may include a statement from a licensed California health professional or other licensed California professional qualified to evaluate the health and safety threats of this ordinance on the water user.

3. **Required Findings for Health or Safety Waiver:** An application for a health and safety waiver shall be denied unless the appropriate 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 or its agent, all of the following:
 - a. That the health and safety waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
 - b. That because of special circumstances applicable to the water user, the strict application of this ordinance to the property owner would directly and negatively impact the health or safety of the water user; and,
 - c. That the authorizing of such waiver 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 ordinance and will not be detrimental to the public interest.
4. **Approval Authority:** The General Manager (or designee) shall exercise approval authority and act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny an application for a health and safety waiver. The property owner requesting the health and safety waiver shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a health and safety waiver is approved, the health and safety waiver applies to the subject property during the term of the mandatory water supply shortage condition.
5. **Appeals to the Board:** An applicant can appeal a decision or condition of the General Manager on a health and safety waiver application to the TSD Board within 10 days of the decision upon written request to the Clerk of the Board for a hearing. The request shall state the grounds for the appeal. At a public meeting, the TSD Board shall act as the approval authority and review the appeal following the regular waiver procedure. The decision of the TSD Board is final.

SECTION 10. FINES AND PENALTIES

A. Misdemeanor

Any violation of District ordinances 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 one thousand dollars (\$1,000), or by both.

B. Fines

Fines for failure to comply with the water conservation measures in the ordinance shall be as follows:

Violation	Permanent & Stage 1 Fines	Stage 2 and Stage 3 Fines
1 st	Courtesy door hanger describing violation will be issued and a copy of this ordinance will be mailed	Fine not greater than \$100
2 nd within preceding 12 months	Fine not greater than \$100	Fine not greater than \$200
3 rd within preceding 12 months	Fine not greater than \$150	Fine not greater than \$250
4 th within preceding 12 months	Fine not greater than \$200	Fine not greater than \$350
5 th and subsequent violation within preceding 12 months	Fine not greater than \$250	Fine not greater than \$500

A fifth and subsequent violation is punishable not only with a fine, but also the following:

1. Water Flow Restrictor (Applies to Permanent and Stages 1-3): The 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 competitively sized restrictors for larger services after written notice of intent from the General Manager to install a restrictor for a minimum of forty-eight (48) hours.
2. Termination of Service (Applies to Stages 2-3): The District may disconnect and/or terminate a customer's water service.

C. Penalties for Excessive Consumption

Excessive water use penalties will be charged in addition to the regular fee structure based on total consumption. If an Account uses more water during any Monthly Billing Cycle than has been allocated to that Account, such excess use shall constitute a violation of this Ordinance, and the penalty rates for excessive consumption is as follows:

Excess Water Charge 1	Excess Water Charge 2	Excess Water Charge 3
0 - <6 HCF	6 - <11 HCF	11+ HCF
Penalty based on 1X Tier 1 water rate	Penalty based on 2X Tier 2 water rate	Penalty based on 3X Tier 3 water rate

Hundred Cubic Feet (HCF) = 100 cubic feet of water = 748 gallons

In addition to the penalty rates, any Account exceeding their allocation four times in any twelve month period may result in the District installing a water flow restrictor device. An Account can request removal of the flow restrictor device following three months of water allocation compliance. Removal requests must be made in writing and addressed to the General Manager, Triunfo Sanitation District, 1001 Partridge Drive, Suite 150, Ventura, California, 93003-0704.

D. Cost of Flow Restrictor and Disconnecting Service

A person or entity that violates this ordinance is responsible for payment of the District charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the District's schedule of charges, then in effect as a charge for installing and/or removing any flow restricting device shall be paid to the District before the device is removed. Nonpayment shall be subject to the same schedules as nonpayment of basic water rates.

E. Separate Offenses

The District provides a 10-day period from the date on the notice of violation in which a violation may be appealed. No further notice of violation for the same offense will be issued during this time. If the appeal is received within this 10-day period, no further action will be taken pending notification of the District's final determination. If the appeal is not received within this 10-day period then the violation stands.

F. Appeals to the Board

An applicant can appeal a decision of the General Manager on a violation to the TSD Board within 10 days of the decision upon written request to the Clerk of the Board for a hearing. The request shall state the grounds for the appeal. At a public meeting, the TSD Board shall act as the approval authority and review the appeal following the regular appeal procedure. The decision of the TSD Board is final.

SECTION 11. SEVERABILITY

If any section, subsection, sentence, clause or phrase in this ordinance or the application thereof to any person or circumstance is for any reason held invalid, the validity of the remainder of the ordinance or the application of such provision to other persons or circumstances shall be adopted thereby. The Board of Directors 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 or the application thereof to any person or circumstance be held invalid.

SECTION 12. REPEAL OF PRIOR INCONSISTENT ORDINANCES

Any prior ordinances or portions of ordinances previously adopted by the District Board of Directors that are in conflict with this Ordinance, are repealed as of the Effective Date of this Ordinance. This includes TSD-66 and TSD-92.

SECTION 13. EFFECTIVE DATE

This Ordinance shall become effective January 1, 2019.


PASSED, APPROVED AND ADOPTED this 26th day of November 2018 by the following vote:

AYES: J. Orkney, S. Pan, L. Shapiro, R. Tjulander, J. Wall

NOES: \emptyset


ABSENT: \emptyset

TRIUNFO SANITATION DISTRICT



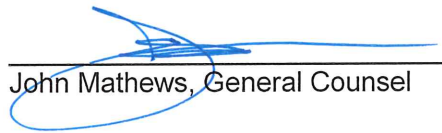
Janna Orkney, Chair

ATTESTED:



Juliet Rodriguez, Clerk of the Board

APPROVED AS TO FORM:



John Mathews, General Counsel