

ORDINANCE NO. TSD-67

Triunfo Sanitation District/Oak Park Water Service
Water Conservation Ordinance

September 30, 2009

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Water Conservation Ordinance

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ORDINANCE NO. TSD-67

AN ORDINANCE OF THE TRIUNFO SANITATION DISTRICT ESTABLISHING A WATER CONSERVATION AND WATER SUPPLY SHORTAGE PROGRAM AND REGULATIONS

Section I: Title

This ordinance will be known at the Triunfo Sanitation District/Oak Park Water Service Water Conservation Program.

Section II: Findings

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, climate change, 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, BE IT RESOLVED AND DETERMINED THAT THE BOARD OF THE TRIUNFO SANITATION DISTRICT DOES ORDAIN AS FOLLOWS:

Section III. Declaration of Purpose and Intent

- a. The purpose of this ordinance is to establish a water conservation and supply shortage program that will reduce water consumption within the District through 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 to avoid and minimize the effect and hardship of water shortage to the greatest extent possible.
- b. This ordinance establishes three stages 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 decreasing supplies and emergency conditions.

Section IV. Definitions

- a. The following words and phrases whenever used in this ordinance shall have the meaning defined in this section:
 1. "District" means the Triunfo Sanitation District/Oak Park Water Service.
 2. "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.
 3. "Person" means any natural person or persons, corporation, public or private entity, governmental agency or institution or any other user of water provided by the District.
 4. "Potable Water" means water which is suitable for drinking.
 5. "Recycled Water" means the reclamation and reuse of non-potable water for beneficial use.

Section V. Application

- 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 VI: Stage 1 Water Supply Shortage

- a. 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. These requirements are in addition to the water conservation items stated in Ordinance No. TSD-66.
- b. Water Conservation Measures: The following water conservation requirements apply during a declared Stage 1 Water Supply Shortage:
 1. Limits on Watering: 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 2 days 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. Obligation to Fix Leaks, Breaks or Malfunctions: All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be remedied within seventy two (72) hours of observation and/or notification by the District.
 3. Use only recycled water for construction site dust control, consolidation of backfill.
 4. Other Prohibited Uses: The Board of Directors may implement other prohibited water uses as determined by the District after notice to customers.

Section VII. Stage 2 Water Supply Shortage

- a. 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. Conservation Measures: In addition to the prohibited uses of water identified in Section VI, the following additional water conservation requirements apply during a declared Stage 2 Water Supply Shortage:
 1. Limits on Watering: 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, 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. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be remedied within forty eight (48) hours of observation and/or notification by the District.
3. 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. Residential car washing prohibited. Use car washes available with water recycling systems.
5. The filling or topping off of any new or existing residential pools or outdoor spas is prohibited.
6. Planting of new turf grass is prohibited.
7. Outdoor evaporative mist coolers are prohibited.
8. 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 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.

Section VIII. Stage 3 Water Supply Shortage – Emergency Condition

- a. 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 will implement the mandatory Stage 3 conservation measures identified in this section.

- b. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Sections VI and VII the following water conservation requirements apply during a declared Stage 3 Water Supply Shortage Emergency:
1. **Limited Watering or Irrigating:** 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 the hardship waiver provisions as described in Section X:
 - 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. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing, distribution, or irrigation system must be remedied within twenty four (24) hours of observation and/or 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 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.

Section IX. Procedures for Determination/Notification of Water Supply Shortage

- a. **Determination and notification of a Stage 1 or Stage 2, Water Supply Shortage condition:** 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 a Stage 3 Water Supply Shortage condition ("Emergency" condition):** 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 X. 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, that is disproportionate by the impacts to water users generally or to similar property or classes of water users, 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, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property:
 1. **Application:** Application for a 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 may be accompanied by photographs, maps, drawing and other information, including a written statement of the applicant.
 3. **Required Findings for Variance:** An application for a waiver shall be denied unless the appropriate authority finds, based in the information provided in the applications, 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 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 property or its use, the strict application of this ordinance would have a disproportionate impact on the property or use that exceeds the impacts to similarly situated residences and businesses;
 - 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; and
 - d. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common or general in nature.
 4. **Approval Authority:** The District 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 the waiver. The applicant requesting the waiver shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved the 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 to the District Manager on a waiver application to the TSD Board within 10 days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the 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 XI. Penalties and Violations

- 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. **Civil Penalties:** Civil penalties for failure to comply with any provisions of the ordinance shall be as follows:

Stage 1

- 1. **First Violation:** The District shall issue a written courtesy door hanger describing the violation and deliver a copy of this ordinance by mail.
- 2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars (\$100.00).
- 3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred and fifty dollars (\$150.00).
- 4. **Fourth Violation:** A fourth violation is punishable by a fine not to exceed two hundred dollars (\$200.00).
- 5. **Fifth and Subsequent Violations:** A fifth and subsequent violation is punishable by a fine not to exceed two hundred and fifty dollars (\$250.00).
 - a. **Water Flow Restrictor:** In addition to any fines, 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 to install a restrictor for a minimum of forty-eight (48) hours.

Stages 2 & 3

- 1. **First Violation:** The first violation is punishable by a fine not to exceed one hundred dollars (\$100.00).
- 2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred dollars (\$200.00).
- 3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred fifty dollars (\$250.00).
- 4. **Fourth Violation:** A fourth violation is punishable by a fine not to exceed three hundred fifty dollars (\$350.00).
- 5. **Fifth and Subsequent Violations:** A fifth and subsequent violation is punishable by a fine not to exceed five hundred dollars (\$500.00).
 - a. **Water Flow Restrictor:** In addition to any fines, 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 to install a restrictor for a minimum of forty-eight (48) hours.
 - b. **Termination of Service:** In addition to any fines and the installation of a water flow restrictor, the District may disconnect and/or terminate a customer's water service.

- c. **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.
- d. **Separate Offenses:** Once the District issues a violation for a particular offense, no further notice of violation will be issued for the same offense until such time as the penalty for the offense has been paid or the 10 day period to appeal has expired, whichever occurs first. If an appeal is timely filed after a violation is served, then no further notice of violation for the same offense will be issued until the appeal has been heard and a decision on that appeal rendered.
- e. **Notice of Hearing:**
 - 1. The District shall issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action and said notice shall describe the action to be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the District no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed shall be final. Upon receipt of a timely appeal, a hearing on the appeal shall be scheduled in a timely manner, and the District shall mail written notice of the hearing to the customer at least ten (10) days before the date of the said hearing.
 - 2. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the District may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violations and the current declared water Stage condition.

Section XII. 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 XIII. Effective Date

This Ordinance is effective upon adoption.

PASSED, APPROVED AND ADOPTED this 30th day of September 2009.

AYES: **Gillette, Glancy, Orkney, Parks, and Paule**

NOES: **None**

ABSENT: **None**

(signed) _____
Janna Orkney, Chair

(signed) _____
Rhonda Catron, Clerk of the Board