

ORDINANCE NO. 2019-128

**AN ORDINANCE OF BOARD OF THE DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING NIPOMO COMMUNITY SERVICES DISTRICT
CODE CHAPTER 3.24**

The Board of Directors of the Nipomo Community Services District ordains as follows:

SECTION 1. Recitals:

- A. The Central Coast region of California, like other parts of the state, frequently suffers from severe droughts, the most recent occurring during the years 2012-2017.
- B. In response to the most recent drought, the Governor of the State of California declared a drought state of emergency and imposed a number of emergency water conservation requirements. Following the conclusion of the drought in 2017, the Governor terminated the 2014 Drought State of Emergency and a number of orders and other declarations issued pursuant to that declaration of emergency. However, in so doing, the Governor specifically retained the orders and provisions contained in Executive Order B-36-16, entitled "Making Water Conservation a California Way of Life." The purpose of this Order is to ensure that water conservation requirements remain in effect in perpetuity in order to protect the ongoing availability of water resources.
- C. The District is a party to the Santa Maria Groundwater Adjudication, *Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.* Case No. CV770214 ("Groundwater Litigation"). Pursuant to Section VI of the 2005 Stipulation incorporated into the January 25, 2008 Final Judgment in the Groundwater Litigation, the Nipomo Mesa Management Area Technical Group ("NMMA TG") adopted a Water Shortage Conditions and Response Plan and a Well Management Plan addressing measures that may be implemented in the event of potentially severe or severe water shortage conditions. The Well Management Plan includes a "List of Recommended Water Use Restrictions" which the Nipomo Mesa Management Area ("NMMA") water suppliers, such as the District, may be requested to implement in response to water shortage conditions in the NMMA.
- D. Water Code section 375 allows public entities such as the District that supply water for the benefit of persons within their service areas to "adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity." (Water Code § 375(a).) The statute also provides that, with respect "to water delivered for other than agricultural uses, the ordinance or resolution may specifically require the installation of water-saving devices that are designed to reduce water consumption." (Water Code § 375(b).)
- E. Similarly, Water Code section 71640, et seq., made applicable to the District by Government Code section 61100(a), allows the District to enact an ordinance setting forth restrictions, prohibits, and exclusions for the use of District water. As stated in Water Code section 71640:

A district may restrict the use of district water during any emergency caused by drought, or other threatened or existing

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water shortage, and may prohibit the wastage of district water or the use of district water during such periods for any purpose other than household uses or such other restricted uses as the district determines to be necessary. A district may also prohibit use of district water during such periods for specific uses which it finds to be nonessential.

- F. The District wishes to enact a Water Conservation Ordinance in order to establish certain water conservation measures that may be needed to address drought, threatened or existing water shortages, the waste of District water, or potentially severe or severe water shortage conditions identified by the NMMA TG. The District Board of Directors finds and declares that this Water Conservation Ordinance is necessary to enable the District to meet current and future water conservation requirements and to ensure the ongoing availability of water to meet the needs of the District's customers.

SECTION 2. Chapter 3.24 of the Nipomo Community Services District Code, referenced herein as "District Code," shall be amended and replaced in its entirety to read as follows:

Chapter 3.24 - WATER CONSERVATION REQUIREMENTS

Sections:

3.24.010 - Water Conservation Measures

By Resolution of the Board of Directors, the District may order any or all of the following actions to conserve water during times of drought, to address threatened or existing water shortages, or to respond to potentially severe or severe water shortage conditions as identified by the Nipomo Mesa Management Area Technical Group:

Stage	Conservation Measures
I	<ul style="list-style-type: none">a. District customers shall comply with all state mandates.b. District customers may be required to implement any or all of the following additional measures:<ul style="list-style-type: none">i. Fix all plumbing and irrigation leaks immediately.ii. Irrigate after 8:00 p.m. and before 9:00 a.m.iii. Use minimal irrigation at all times.iv. Check all irrigation systems periodically.v. Do not allow excessive irrigation run off.vi. Recirculate water in ornamental water features and fountains.

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II	<p>a. District customers shall comply with all state mandates.</p> <p>b. District customers may be required to implement any or all of the following additional measures:</p> <ul style="list-style-type: none">i. Implement all Stage I conservation measures.ii. Cover swimming pools and spas when not in use.iii. Do not use water to wash down exterior surfaces (e.g. driveways, sidewalks, decks, walls, etc.)
III	<p>a. District customers shall comply with all state mandates.</p> <p>b. District customers may be required to implement any or all of the following additional measures:</p> <ul style="list-style-type: none">i. Implement all Stage I and II conservation measures.ii. Turn off all automated irrigation systems.iii. Provide minimum necessary irrigation to preserve trees and shrubs.iv. Do not use water for dust control or construction.v. Do not use hoses without automatic shut-off devices to wash cars or equipment.vi. Turn off ornamental water features and fountains.
IV	<p>a. District customers shall comply with all state mandates.</p> <p>b. District customers may be required to implement any or all of the following additional measures:</p> <ul style="list-style-type: none">i. Implement all Stage I, II, and III conservation measures.ii. Do not use District water for irrigation or outdoor uses of any sort.
V	<p>a. District customers shall comply with all state mandates.</p> <p>b. District customers may be required to implement any or all of the following additional measures:</p> <ul style="list-style-type: none">i. Implement all Stage I, II, III, and IV conservation measures.ii. Additional measures to reduce water use as identified by the District.

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3.24.020 - Penalties.

Violation of any mandatory requirements of this Chapter or of any Resolution of the Board of Directors implementing Section 3.24.010 may be enforced pursuant to District Code Section 3.04.370, which remedies are cumulative and in addition to any other remedies provided by law.

SECTION 3. This Ordinance supersedes and replaces the Water Conservation Program previously adopted by the District Board of Directors pursuant to District Resolution No. 2008-1069, which shall have no further force or effect as of the effective date of this Ordinance.

SECTION 4. Any sections, portions of sections, or subsections of the District Code not specifically amended and replaced herein shall remain in full force and effect.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

SECTION 6. The Board of Directors of the District finds that this Ordinance is not a project as defined by the California Environmental Quality Act ("CEQA"), CEQA Guidelines Sections 15378(b)(2) because it constitutes general policy and procedure making which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The Board of Directors further finds that the adoption of this Ordinance is not a project as defined in CEQA Guidelines Section 15378 because it can be seen with certainty that it will not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The Board of Directors further finds that the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15307 because it consists of actions authorized by state law to assure the maintenance, restoration, or enhancement of a natural resource (water), and involves procedures for protection of the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

SECTION 7. Pursuant to Water Code Section 376, this Ordinance shall take effect upon adoption. Within ten (10) days after its adoption, this Ordinance shall be published pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation that is printed, published, and circulated in the District. Before the expiration of the fifteenth (15th) day after passage this Ordinance, District Counsel shall prepare and cause to be published once, with the names of the members of the Board of Directors voting for or against the Ordinance, a summary of the Ordinance in a newspaper of general circulation within the District.

INTRODUCED at its regular meeting of the Board of Directors held on December 12, 2018, and PASSED and ADOPTED by the Board of Directors of the Nipomo Community Services District at its regular meeting on the 9th day of January, 2019, by the following roll call

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vote, to wit:

AYES: Director Armstrong, Gaddis, Woodson, Blair and Eby
NOES: None
ABSENT: None
CONFLICTS: None



ED EBY
President, Board of Directors

ATTEST:



MARIO IGLESIAS
General Manager and
Secretary to the Board

APPROVED AS TO FORM:



WHITNEY G. McDONALD
District Legal Counsel