

ORDINANCE NO. _____

**AN ORDINANCE OF THE YOLO COUNTY BOARD OF SUPERVISORS ADDING
ARTICLE 7 TO CHAPTER 8 OF TITLE 6 TO THE YOLO COUNTY CODE TO
ADOPT A WATER CONSERVATION PROGRAM**

WHEREAS, article X, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water; and

WHEREAS, on May 9, 2016, Governor Brown issued Executive Order B-37-16, “Making Conservation a California Way of Life” that, among other things, prohibit wasteful water practices such as: hosing off sidewalks, driveways and other hardscapes; washing automobiles with hoses not equipped with a shut-off nozzle; using non-recirculated water in a fountain or other decorative water feature; watering lawns in a manner that causes runoff, or within 48 hours after measurable precipitation; and irrigating ornamental turf on public street medians; and

WHEREAS, on March 5, 2021, the Secretary of the United States Department of Agriculture designated 50 California counties, including Yolo County, as primary natural disaster areas due to drought; and

WHEREAS, on May 10, 2021, the Governor of the State of California proclaimed a state of emergency in 41 counties in the State, including Yolo County, due to current drought conditions in the Sacramento-San Joaquin Delta Watershed; and

WHEREAS, the Governor’s proclamation acknowledged that California is in a second consecutive year of dry conditions, resulting in drought or near-drought throughout many portions of the State; and

WHEREAS, the Governor’s proclamation also noted that extreme drought conditions through much of the State present urgent challenges, including the risk of water shortages in communities, greatly increased wildfire activity, diminished water for agricultural production, threat of saltwater contamination of large fresh water supplies conveyed through the Sacramento-San Joaquin Delta, and additional water scarcity if drought conditions continue into next year; and

WHEREAS, the Governor issued a subsequent emergency declaration on July 8, 2021, expanding the drought emergency to 50 of the State’s 58 counties and issued Executive Order N-10-21, which calls upon all Californians to voluntarily reduce their water usage by 15 percent from their 2020 levels; and

WHEREAS, the County has several County Services Areas organized and existing under the County Service Area Law (Gov. Code, §§ 25210 et seq.), which are governed by the County Board of Supervisors and provide water service directly or through contractual agreements with water suppliers, like the City of Davis, to residents and businesses within the County Services Areas (CSA); and

WHEREAS, Executive Order N-10-21 recognizes that actions now to conserve water and extend local groundwater and surface water supplies will provide greater resilience if the drought continues in future years;

WHEREAS, on July 27, 2021, the Board of Supervisors of the County of Yolo adopted Resolution No. 21-98 proclaiming the existence of a local drought emergency and further adopted Resolution No. 21-99 confirming the authority of the Director of Emergency Services to implement mandatory restrictions within the Wild Wings County Service Area if necessitated by water supply conditions with the Wild Wings groundwater wells; and

WHEREAS, the drought is impacting domestic wells that serve communities in the unincorporated areas of Yolo County; for example, there are two wells serving the Wild Wings community, and as of early spring 2021 both wells were approximately 18 feet lower than the same time last year, and one of these wells, the Canvasback Well, which serves the Wild Wings golf course and also serves as the Wild Wings community back-up water supply, had to be turned off as the pump was no longer stable enough to operate the well and the primary well serving the Wild Wings community (the Pintail well) is projected to have 3-4 months to shutoff based on recent water level data; and

WHEREAS, groundwater levels throughout Yolo County showed minimal recovery this year after the dry winter and spring; and

WHEREAS, California Water Code sections 375 et seq. empower any public entity which supplies water at retail or wholesale to adopt and enforce a water conservation program to reduce the quantity of such water used by those within its service area after holding a public hearing and making appropriate findings of necessity for the adoption of a water conservation program; and

WHEREAS, Water Code section 375, subdivision (c) defines “public entity” to include a city, county, special district, water authority, or any other municipal public corporation or district; and

WHEREAS, pursuant to Water Code section 376 and Government Code 6061, the County must publish in a newspaper of general circulation any ordinance or resolution adopting a water conservation program within 10 days after its adoption; and

WHEREAS, Water Code section 377 establishes that, from the publication of an ordinance or resolution pursuant to section 376 until the repeal of the ordinance or end of the emergency, it is a misdemeanor punishable by up to 30 days in county jail and/or a fine of up to \$1,000 for any person to violate a requirement of the water conservation program; and

WHEREAS, the adoption and enforcement of a comprehensive water conservation program will allow the County to delay or avoid declaring a water shortage emergency pursuant to Water Code section 350; and

WHEREAS, on August 31, 2021, the Board of Supervisors of the County of Yolo held a noticed public hearing and made appropriate findings of necessity for the adoption of a water conservation program; and

The Board of Supervisors of the County of Yolo ordains as follows:

Section 1. Incorporation of Recitals

All of the foregoing recitals are true and correct and the Board of Supervisors so finds and determines. The recitals set forth above are incorporated herein and made an operative part of this Ordinance.

Section 2. Findings and Purpose

The Board of Supervisors finds and determines that because of the prevailing water conditions in the State and County of Yolo and declared policy of the State, it is necessary and appropriate for the Board to adopt, implement and enforce this water conservation program to be implemented during times of declared water shortages or declared water shortage emergencies. The purpose of this Ordinance is to add Article 7 to Chapter 8 of Title 6 to the Yolo County Code of Ordinances to adopt a water conservation program in accordance with Water Code section 375 et seq. for County Service Areas (El Macero CSA No. 1, North Davis Meadows CSA No. 10, and Willowbank CSA No. 12, and Wild Wings CSA No. 15), where the County supplies water at retail or wholesale for the benefit of persons within the service area to reduce the quantity of water used by those persons for the purpose of conserving the water supplies to ensure that there is sufficient water for human consumption, sanitation, and fire protection. It establishes six levels of drought response actions, including mandatory water use restrictions and administrative fines and/or penalties, to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies.

Section 3. Water Conservation Program - Addition of Article 7 to Chapter 8 of Title 6 of the Yolo County Code

Article 7 of Chapter 8 of Title 6 of the Yolo County Code regarding a Water Conservation Program is hereby added as set forth in Exhibit "A," attached hereto and incorporated herein by reference.

Section 4. Severability. If any section, sub-section, sentence, clause, or phrase of this Ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid

Section 5. Effective Date. Pursuant to Water Code section 376, this Ordinance is effective immediately upon adoption.

Section 6. Publication. Pursuant to Water Code section 376 and Government Code section 6061, the Senior Deputy Clerk shall cause this Ordinance, or a summary thereof, to be published at least once in a newspaper of general circulation within 10 days after its adoption.

Introduced at a Board of Supervisors regular meeting held on August 31, 2021, and adopted by the Yolo County Board of Supervisors at its regular meeting on September 14, 2021, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Jim Provenza, Chair
Yolo County Board of Supervisors

Attest:
Julie Dachtler, Senior Deputy Clerk

Approved as to Form:
Philip J. Pogledich, County Counsel

By: _____
Deputy (Seal)


By:  _____
Kimberly E. Hood, Asst. County Counsel

EXHIBIT A

Addition of Article 7 to Chapter 8 of Title 6 of the Yolo County Code (Water Conservation)

Section 7-8.701. Application.

The provisions of this Article shall apply to all water customers of the County Service Areas (CSA) listed below, except to the extent a CSA is subject to specific water regulations or conservation measures of a retail water supplier that conflict with this Article, in which case the regulations of the retail water supplier shall control.

El Macero CSA No. 1
North Davis Meadows CSA No. 10
Willowbank CSA No. 12
Wild Wing CSA No. 15

Section 7-8.702. Level 1 Drought Response – Permanent Water Use Restrictions.

(a) Landscape water use restrictions.

- (1) No potable water shall be applied to outdoor landscapes in a manner that causes more than incidental runoff, such as minimal overspray from sprinklers that escapes the area of intended use, so that water flows onto adjacent property, non-irrigated areas, private or public walkways, roadways, parking lots, or structures.
- (2) No landscape watering between 9:00 a.m. and 6:00 p.m. except with a hand-held container or hose with a shut-off nozzle, or for very short periods when adjusting a sprinkler system. This restriction does not apply to landscape irrigation using a low volume irrigation system (such as drip irrigation and micro-irrigation) designed to apply small volumes of water slowly at or near the root zone of plants. This includes, but is not limited to, properly functioning drip irrigation systems and soaker hoses.
- (3) No irrigation of turf and/or ornamental landscapes during and within forty-eight hours after measurable rainfall of at least one-fourth of one inch of rain in a given area of the CSA.
- (4) No irrigation with potable water of landscapes outside of homes and buildings constructed after June 2015 in any manner inconsistent with regulations or other requirements established by the California Building Standards Commission, the State Model Water Efficient Landscape Ordinance (23 California Code of Regulations §§ 490 et seq.), or Yolo County Code, Title 8, Chapter 3 (Water Efficient Landscaping Ordinance), whichever is more restrictive.
- (5) No irrigation of turf on public street medians or publicly owned and maintained landscaped areas between the street and sidewalk, except where:
 - (A) The turf serves a community or neighborhood function, including, but not limited to, recreational uses and civic or community events; or

(B) The turf is irrigated incidentally by an irrigation system, the primary purpose of which is the irrigation of trees; or

(C) The turf is irrigated with recycled or other nonpotable water.

(b) **Commercial water use restrictions.**

(1) Eating or drinking establishments, including, but not limited to, restaurants, cafes, cafeterias, bars, clubhouses or other public places where food or drink are served and/or purchased shall only serve drinking water upon patron request.

(2) Restaurants are required to use a pre-rinse spray valve when washing dishes.

(c) **Other water use restrictions.**

(1) A hose that dispenses potable water to wash a motor vehicle shall be fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.

(2) Potable water shall not be applied directly to driveways and sidewalks unless required for health and safety purposes.

(3) Potable water shall not be used in an ornamental fountain or other decorative water feature, except where the water is part of a recirculating system.

(4) All property owners must fix leaks, breaks or malfunctions in water fixtures or water-using or distributing devices to which city water is connected when they find them, or within seventy-two (72) hours of receiving a notice from the County.

(d) **HOAs.** Homeowners Associations (HOAs) are strongly encouraged to adopt and enforce water use restrictions in their respective rules and regulations.

Section 7-8.703. Level 2 Drought Response.

The objective of a Level 2 Drought Response is to reduce water usage by 20% from the normal demand level. During a Level 2 Drought Response condition, all persons shall comply with Level 1 Drought Response water conservation practices except when they are replaced by more restrictive conditions imposed by this section and shall also comply with the following additional mandatory conservation measures:

(a) Limit residential and commercial landscape irrigation to no more than three assigned days per week on a schedule established by the County.

(b) Limit lawn watering and landscape irrigation using sprinklers to no more than twelve (12) minutes per watering station per day. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotor sprinklers.

(c) For landscaped areas, including trees and shrubs located on residential and commercial properties, not irrigated by a landscape irrigation system, water by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

(d) Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems.

Section 7-8.704. Level 3 Drought Response.

The objective of a Level 3 Drought Response is to reduce water usage by 30% from the normal demand level. During a Level 3 Drought Response condition, all persons using shall comply with Level 1 and Level 2 Drought Response water conservation practices except when they are replaced by more restrictive conditions imposed by this section and shall also comply with the following additional mandatory conservation measures:

- (a) Limit landscape irrigation to no more than two assigned days per week on a schedule established by the Director or designee and posted by the County.
- (b) New or expanded landscaping is limited to drought tolerant trees, shrubs, and ground cover. The installation of new turf or hydroseed is prohibited.
- (c) Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value.
- (d) Repair all leaks within forty-eight (48) hours of notification by the County unless other arrangements are made with the Director.

Section 7-8.705. Level 4 Drought Response.

The objective of a Level 4 Drought Response is to reduce water usage by 40% from the normal demand level. During a Level 4 Drought Response condition, all persons shall comply with Level 1, Level 2, and Level 3 Drought Response conditions, except when they are replaced by more restrictive conditions imposed by this section, and shall also comply with the following additional mandatory conservation measures:

- (a) All landscape irrigation is prohibited except for the irrigation of trees or drought tolerant plantings.
- (a) Pools and water storage tanks shall not be emptied or filled using potable water supplied by the County unless required for public health and safety purposes.
- (b) Repair all leaks within twenty-four (24) hours of notification by the County unless other arrangements are made with the Director.

Section 7-8.706. Level 5 Drought Response.

The objective of a Level 5 Drought Response is to reduce water usage by 50% from the normal demand level. During a Level 5 Drought Response condition, all persons shall comply with Level 1, Level 2, Level 3, and Level 4 Drought Response conditions, except when they are replaced by more restrictive conditions imposed by this section, and shall also comply with the following additional mandatory conservation measures:

- (a) No new permits for pools will be issued.
- (b) No new landscape installations or renovations will be permitted.

Section 7-8.707. Level 6 Drought Response.

The objective of a Level 6 Drought Response is to reduce water usage by more than 50% from the normal demand level. During a Level 6 Drought Response condition, all persons shall comply with Level 1, Level 2, Level 3, Level 4, and Level 5 Drought Response conditions,

except when they are replaced by more restrictive conditions imposed by this section, and shall also comply with the following additional mandatory conservation measures:

- (a) Stop all landscape irrigation.
- (b) The landscape restriction shall not apply to the following categories of use unless the County has determined that recycled water is available and may be lawfully applied to the use.
 - (1) Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;
 - (2) Maintenance of existing landscaping for erosion control;
 - (3) Maintenance of plant materials identified to be rare or essential to the well being of rare animals;
 - (4) Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under section 6(b)(1);
 - (5) Watering of livestock; and
 - (6) Public works projects and actively irrigated environmental mitigation projects.

Section 7-8.708. Declaration of Drought Response.

- (a) The Director shall monitor water supply and conservation data and shall regularly report his/her findings to the Board of Supervisors to recommend a Level 2 or higher Drought Response Level. The Board of Supervisors may declare a Drought Conservation Level by resolution adopted at a regular or special meeting of the Board of Supervisors.
- (b) The Board of Supervisors shall declare the existence of a Level 5 or higher Drought Response Level pursuant to Water Code section 350 et seq. (water shortage emergency) at a noticed public meeting unless an immediate emergency, as set forth in Water Code section 351, exists.
- (c) Within ten (10) days following adoption of a resolution declaring a Level 2 or higher Drought Response, a copy of the resolution shall be published pursuant to Government Code section 6061 in a newspaper of general circulation and shall be effective on the date of publication.
- (d) Nothing herein shall be construed to limit the authority of the Board of Supervisors or the Director of Emergency Services to declare a local emergency and to exercise the emergency powers conferred by Government Code section 8630 et seq. and Chapter 1 of Title 4 of the Yolo County Code.

Section 7-8.709. Additional Conservation Measures.

The Board of Supervisors may adopt additional regulations or mandatory water use restrictions at each Drought Response Level as it deems necessary to ensure the continued availability of water for human consumption, sanitation, and fire protection or as may be required by federal, state, or other local water restrictions and

Section 7-8.710. Relief from Compliance; Waiver.

- (a) Undue or Disproportional Hardship. If, due to unique circumstances, a specific requirement of this water conservation ordinance would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to the 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) Establishment of Waiver. A waiver may be granted only where it is found and determined that failure to grant a waiver would:
- (1) Cause an unnecessary and undue hardship on applicant or the public, including but not limited to, the substantial loss of trees or landscaped areas installed or renovated prior to the implementation of a Drought Response level or proclamation of a drought emergency additional watering is required to plant and maintain those landscaped areas for a limited amount of time; or
 - (2) Cause an emergency condition affecting the health, sanitation, fire protection or safety of the applicant or the public.

If such a determination is made, the County will provide the customer with an allowable watering schedule, which will include an allocated increase in water use, and when such watering schedule exception will expire. Any violation of the schedule will be punishable as set forth in this article. Approval of establishment waivers will be based on current water conservation targets, the customers ability to provide alternative means of providing comparable water conservation, and the County's ability to meet those targets.

- (c) Application. A person wishing to receive a waiver pursuant to this section must submit a written request/application to the Community Service Director or the Director's designee, which should include a statement describing the reasons for the request, a detailed watering schedule, duration of waiver, and any other relevant information to support the request, including but not limited to any photographs, drawings, or maps.
- (d) Written Finding. The waiver may be granted or conditionally granted only upon a written finding of the existence of unique circumstances and 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. The findings must also include a determination that, based on the information in the request/application and any other relevant information, a waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses.
- (e) Approval Authority. The Community Services Director or authorized delegate of the County must act on any completed application no later than fifteen (15) business days after submittal. The County may request a site visit, if needed, to verify or collect any missing information needed to make the final decision. The Community Services Director or authorized delegate may approve, conditionally approve, or deny the waiver request. The applicant requesting the waiver must be promptly notified in writing of any

action taken. The decision of the Community Services Director or authorized delegate is final.

Section 7-8.711. Enforcement; Violations.

- (a) Violations of this Article shall constitute a misdemeanor, subject to the following penalties:
 - (1) Each violation of this ordinance 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 \$1,000, or by both as provided in Water Code section 377.
 - (2) Each day that a violation of this ordinance occurs is a separate offense.
- (b) Public Nuisance. Any violation of this Article is hereby declared a public nuisance and may be subject to administrative citations with fines up to \$1,000 per violation per day and abated pursuant to Chapter 5 (Code Enforcement) of Title 1 of the Yolo County Code.