

# RMWD LEGISLATIVE CODE

## Chapter 7.40

### WATER CONSERVATION

#### Contents:

<b>Section 7.40.010</b>	<b>Declaration of Policy.</b>
<b>Section 7.40.020</b>	<b>Findings.</b>
<b>Section 7.40.030</b>	<b>Voluntary Guidelines.</b>
<b>Section 7.40.040</b>	<b>Drought Response Conservation Program.</b>
<b>Section 7.40.041</b>	<b>Violations and Penalties.</b>
<b>Section 7.40.042</b>	<b>Variance.</b>

#### **Section 7.40.010 Declaration of Policy.**

California Water Code Sections 375 et seq. and 71640 et seq., authorizes municipal water districts to adopt water conservation measures in a comprehensive water conservation program to reduce the quantity of water used by the people for the purposes of conserving the water supplies of the District and of the State, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times. The District may also prohibit use of water during designated periods and for specific uses that it finds to be nonessential. Understanding that the community of Ramona wishes to utilize its limited water resources as efficiently as possible, all members of the Ramona community are encouraged to take steps to voluntarily reduce water consumption throughout the year regardless of whether drought conditions exist. The Board has established an effective cooperative Water Conservation program to provide resources and education to the public. Information about the program can be obtained by contacting the District office, or through the District's website.

The policy established herein is part of the Ramona Municipal Water District's comprehensive Water Conservation program pursuant to California Water Code Sections 375 et seq. and 71640 et seq., based upon the need to conserve water supplies and to avoid or minimize the effects of any future shortage. The Board fully anticipates, encourages and appreciates the joint efforts between the District and the public to conserve water to protect water supplies.

This policy also establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of drought response actions ("Drought Response Levels") to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies. Drought Response Level 1 drought condition response measures are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District.

## RMWD LEGISLATIVE CODE

During Drought Response Levels 2 through 4, all conservation measures and water-use restrictions are mandatory and become increasingly restrictive in order to attain escalating conservation goals. Violations of this Chapter are subject to criminal, civil, and administrative penalties and remedies specified in this Chapter 7.40 and as provided by law.

### **Section 7.40.020 Findings.**

The District finds and determines the conditions prevailing in the Ramona Municipal Water District service area require water resources be put to maximum beneficial use, to every extent possible. The waste or unreasonable use of water must be prevented, and the conservation of water encouraged. The District's objective is to obtain the maximum reasonable and beneficial use of its water resources, to best serve the members of the community and to ensure public health, safety and welfare.

### **Section 7.40.030 Voluntary Guidelines.**

- A. The following voluntary water conservation guidelines have been established to reduce overall water consumption, and preserve the District's water supply. The District encourages all customers to incorporate water conservation practices into their daily lifestyle, for enhancing the beneficial use of water resources.
  - 1. Acknowledging that landscape irrigation is the single highest usage of water in single-family homes - about 60% of water used, the District establishes the following guidelines to conserve water for landscape and other outside use:
    - a. Water lawn and landscaping only during the cool parts of the day. Early morning is best, as it helps prevent the growth of fungus (watering may be done at any time with a bucket, a hand-held hose equipped with a positive shut-off nozzle, with drip irrigation or rotating nozzles);
    - b. Water lawn only when it needs it - step on the grass, if it springs up underfoot, it does not need water;
    - c. When watering the lawn, water it long enough to seep down into the roots, as surface watering will simply evaporate and be wasted;
    - d. Practice water-wise gardening by using drought tolerant and California-Friendly plants and trees;
    - e. Put a layer of mulch around trees and plants to slow the evaporation of moisture;
    - f. Delay new plantings until the cooler fall months, when plants need less water;
    - g. Water for several short periods instead of one long period, so the soil can absorb the moisture, without wasteful runoff;

## RMWD LEGISLATIVE CODE

- h. Use a broom to clean off sidewalks, driveways, parking areas, tennis courts, patios or other paved areas;
  - i. Check for leaks in pipes, hoses, faucets and couplings; repair as soon as possible;
  - j. Use a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle when washing autos, trucks, trailers, boats, airplanes and other types of mobile equipment; and
  - k. Use untreated or recycled water for grading, if possible.
2. To conserve indoor water use:
- a. Check toilet(s) for leaks. Put a few drops of food coloring in the toilet tank. If, without flushing, the coloring begins to appear in the bowl, the tank has a leak that may be wasting up to 100 gallons of water a day. Install a high-efficiency or an ultra low-flush toilet;
  - b. Take shorter showers. Limit showers to the time it takes to wash and rinse;
  - c. Install water-saving shower heads or flow restrictors;
  - d. Take baths instead of showers. A partially filled tub uses less water than a shower;
  - e. Turn off the water while brushing teeth and shaving;
  - f. Check faucets and pipes for leaks;
  - g. Use automatic dishwashers only for full loads, as every load uses about 25 gallons of water;
  - h. Use automatic clothes washers only for full loads, as every load uses 30 to 35 gallons a cycle. Consider purchasing a High-Efficiency Washer (HEW), when replacing your clothes washer;
  - i. Do not let the faucet run while cleaning vegetables or when washing dishes, as rinsing can be done in a sink full of clean water;
  - j. Do not leave water running for rinsing when washing dishes by hand;
  - k. Serve water to restaurant customers only when specifically requested.

### **Section 7.40.040 Drought Response Conservation Program.**

#### A. Definitions

## RMWD LEGISLATIVE CODE

1. The following words and phrases whenever used in this chapter shall have the meaning defined in this section:
  - a. “Grower” refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market; or (2) for the feeding of fowl or livestock produced for human consumption or for the market; or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. “Grower” does not refer to customers who purchase water subject to the Water Authority Special Agricultural Rate programs.
  - b. “Water Authority” means the San Diego County Water Authority.
  - c. “DMP” means the Water Authority’s Drought Management Plan in existence on the effective date of this Chapter 7.40 and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.
  - d. “Metropolitan” means the Metropolitan Water District of Southern California.
  - e. “Person” means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.
  - f. “SAWR” means the Special Agricultural Water Rate program available from Metropolitan that is administered by the Water Authority.

### B. Application

1. The provisions of Chapter 7.40 apply to any person in the use of any water provided by the District and proposed users of District water, as applicable.
2. Chapter 7.40 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 stormwater ordinances and stormwater management plans.
3. Nothing in Chapter 7.40 is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

## RMWD LEGISLATIVE CODE

4. The provisions of Chapter 7.40 do not apply to use of water from private wells or to recycled water.
  5. Unless otherwise specifically authorized in this Legislative Code, nothing in Chapter 7.40 shall apply to use of water that is subject to a special supply program. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program.
- C. Drought Response Level 1: Drought Watch Condition
1. A Drought Response Level 1 condition is also referred to as a “Drought Watch” condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager may declare the existence of a Drought Response Level 1 and take action to implement the Level 1 conservation practices identified in this Section.
  2. During a Level 1 Drought Watch condition, District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices:
    - a. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
    - b. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
    - c. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only.
    - d. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
    - e. Irrigate nursery and commercial grower’s products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment or rotating nozzles are used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.
    - f. Use re-circulated water to operate ornamental fountains.

## RMWD LEGISLATIVE CODE

- g. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.
- h. Serve and refill water in restaurants and other food service establishments only upon request.
- i. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
- j. Repair all water leaks within five (5) days of notification by the District unless other arrangements are made with the General Manager.
- k. Use recycled or non-potable water for construction purposes when available and feasible.

### D. Drought Response Level 2: Drought Alert Condition

- 1. A Drought Response Level 2 condition is also referred to as a “Drought Alert” condition. A Level 2 condition applies when the Water Authority notifies its member agencies, including the District, that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to twenty percent (20%) is required in order to have sufficient supplies available to meet anticipated demands. The District’s Board of Directors may declare the existence of a Drought Response Level 2 condition and implement the mandatory Level 2 conservation measures identified in this Chapter 7.40.
- 2. All District water use shall comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert and shall also comply with the following additional conservation measures:
  - a. Limit residential and commercial landscape irrigation to no more than two (2) days per week. During the months of November through May, landscape irrigation is limited to no more than once per week. This section shall not apply to commercial growers or nurseries.
  - b. Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10) minutes per watering station per watering 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 rotating nozzles.
  - c. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section D(2)(a) above, on the same schedule set forth in Section D(2)(a) above, by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

## RMWD LEGISLATIVE CODE

- d. Repair all leaks within seventy-two (72) hours of notification by the District unless other arrangements are made with the General Manager.
  - e. Stop operating ornamental fountains or similar decorative water features unless recycled water is used.
  - f. No irrigating outdoors during and within 48 hours following measurable rainfall.
  - g. Irrigation with potable water of ornamental turf on public street medians is prohibited.
3. During a Drought Response Level 2 condition, the District Board of Directors may find that drought conditions are such that an emergency condition exists and may take additional action to declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350. In the event of a declared Drought Emergency, no applications for new potable metered water service or upsizing of metered water service shall be accepted, no new temporary meters or permanent meters shall be provided and no new statements of ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability, commitment letters, agency clearance forms, out-of-district potable water service agreements) shall be issued, except under the following circumstances:
- a. A valid, unexpired building permit has been issued for the project; or
  - b. The project is necessary to protect the public's health, safety, and welfare; or
  - c. 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, in its sole discretion.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore services that have been interrupted for less than a year.

4. The District may establish a water allocation for property served by the District using a method that does not penalize persons for the prior implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, the District shall provide notice of the allocation by including the allocation in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Any penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Chapter. For the purpose of assessing

## RMWD LEGISLATIVE CODE

administrative fines pursuant to Chapter 7.40.041, each billing period in which an allocation is exceeded shall count as a separate violation. Subsequent violations that occur during a calendar year shall count cumulatively for the purpose of assessing administrative fines for second violations and additional violations.

### E. Drought Response Level 3: Drought Critical Condition

1. A Drought Response Level 3 condition is also referred to as a “Drought Critical” condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to forty percent (40%) is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors may declare the existence of a Drought Response Level 3 condition and implement the Level 3 conservation measures identified in this policy.
2. All District water use shall comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices and measures during a Level 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:
  - a. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries.
  - b. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section E(2)(a), on the same schedule set forth in Section E(2)(a) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.
  - 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 and have been actively managed within the water feature prior to declaration of a Drought response level under this Chapter 7.40.
  - d. Stop washing vehicles except at commercial carwashes that recirculate water, or by high pressure/low volume wash systems.
  - e. Repair all leaks within forty-eight (48) hours of notification by the District unless other arrangements are made with the General Manager.



## RMWD LEGISLATIVE CODE

3. During a Drought Response Level 3 condition, the District Board of Directors may find that drought conditions are such that an emergency condition exists and may declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350. In the event of a declared Drought Emergency, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided and no applications for new potable metered water service or upsizing of metered water service shall be accepted, no new temporary meters or permanent meters shall be provided and no new statements of ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability, commitment letters, agency clearance forms, out-of-district potable water service agreements) shall be issued, except under the following circumstances:
  - a. A valid, unexpired building permit has been issued for the project; or
  - b. The project is necessary to protect the public's health, safety, and welfare; or
  - c. 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, in its sole discretion.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore services that has been interrupted for less than a year.

4. The District may establish a water allocation for property served by the District using a method that does not penalize persons for the prior implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, the District shall provide notice of the allocation by including the allocation in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Any penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Chapter. For the purpose of assessing administrative fines pursuant to Chapter 7.40.041, each billing period in which an allocation is exceeded shall count as a separate violation. Subsequent violations that occur during a calendar year shall count cumulatively for the purpose of assessing administrative fines for second violations and additional violations.

### F. Drought Response Level 4: Drought Emergency Condition

1. A Drought Response Level 4 condition is also referred to as a "Drought Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than forty

## RMWD LEGISLATIVE CODE

percent (40%) percent in order for the Authority to have maximum supplies available to meet anticipated demands. Upon declaration by the Authority of a Drought Emergency Condition, the District may declare a Drought Emergency in the manner and on the grounds provided in California Water Code section 350 *et seq.*

2. All District water use shall comply with conservation practices and measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:
  - a. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use.
    - i. Maintenance of trees and shrubs that are watered on the same schedule set forth in Section E(2)(a) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;
    - ii. 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;
    - iii. Maintenance of existing landscaping for erosion control;
    - iv. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;
    - v. 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 E(2)(a) above;
    - vi. Watering of livestock; and
    - vii. Public works projects and actively irrigated environmental mitigation projects.
  - b. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the General Manager.

The District may establish a water allocation for property served by the District. If the District establishes water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Any penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed

## RMWD LEGISLATIVE CODE

for violation of this Chapter. For the purpose of assessing administrative fines pursuant to Chapter 7.40.041, each billing period in which an allocation is exceeded shall count as a separate violation. Subsequent violations that occur during a calendar year shall count cumulatively for the purpose of assessing administrative fines for second violations and additional violations.

### G. Correlation Between Drought Management Plan and Drought Response Levels

1. The correlation between the Water Authority's Drought Management Plan ("DWP") stages and the District Drought response levels identified in this Chapter is described herein. Under DMP Stage 1, the District may implement Drought Response Level 1 actions. Under DMP Stage 2, the District would implement Drought Response Level 1 or Level 2 actions. Under DMP Stage 3, the District may implement Drought Response Level 2, Level 3, or Level 4 actions.

The Drought Response Levels identified in this Chapter correspond with the Water Authority DMP as identified in the following table:

Drought Response Levels	Use Restrictions	Conservation Target	DMP Stage
1 - Drought Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Drought Alert	Mandatory	Up to 20%	Stage 2 or 3
3 - Drought Critical	Mandatory	Up to 40%	Stage 3
4 - Drought Emergency	Mandatory	Above 40%	Stage 3 or 4

### H. Procedures for Determination and Notification of Drought Response Level

1. The existence of a Drought Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District may also post notice of the condition on their website.
2. The existence of Drought Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law, including but not limited to Water Code section 350 *et seq.* The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions shall become effective as stated in the Board Resolution. Within ten (10) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.
3. The existence of a Drought Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 351 and 352. The mandatory conservation measures applicable

## RMWD LEGISLATIVE CODE

to Drought Response Level 4 conditions shall become effective as stated in the Board Resolution. Within ten (10) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall become effective as stated in the Board Resolution.

4. The General Manager may declare the end of Drought Response Level 1. The District Board of Directors may declare an end to a Drought Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.

### **Section 7.40.041      Violations and Penalties.**

- A. Violation of Chapter 7.40. Any person, who uses, causes to be used, or permits the use of water in violation of this Chapter 7.40 is guilty of an offense punishable as provided herein.
- B. Separate Offense. Each day that a violation of this Chapter 7.40 occurs is a separate offense.
- C. Administrative Fines. Administrative fines may be levied for each violation of a provision of this Chapter 7.40 as follows:
  1. One hundred dollars (\$100) for a first violation.
  2. Two hundred dollars (\$200) for a second violation of any provision of this ordinance within one (1) calendar year.
  3. Five hundred dollars (\$500) for each additional violation of this ordinance within one (1) calendar year.
- D. Administrative Procedures for Imposing Fines.
  1. Notice of Violation. If the District General Manager determines to impose a fine on a person ("violator") who has violated any provision of Chapter 7.40, he or she shall cause a written notice of the violation to be sent to the violator. The notice shall provide in sufficient detail the violation(s), the amount of the penalty being imposed, and the date or times by which the penalty shall be paid to the District. The notice shall notify the violator that the fine will be imposed in the violator's next water bill and that the violator may appeal the District's imposition of the fine in writing within ten (10) calendar days of the date of said notice. Service of any notice required under this Section shall be made by the following means:
    - a. Personal service in the same manner as a summons in a civil action;  
or

## RMWD LEGISLATIVE CODE

- b. Registered United States mail, which service shall be completed at the time of deposit into the United States mail.
- 2. Appeal. Within ten (10) calendar days of the date of such notice from the District, the customer may appeal the proposed fine to the District General Manager in writing, setting forth a description of the violation, any cure measures undertaken, the amount of the fine, the basis for the appeal, and the remedy sought. The General Manager shall consider the appeal and shall issue a written decision to the appellant customer. If the customer fails to appeal the ten (10) calendar days period specified in the District's notice to the customer, the customer shall lose its right to appeal the District's fine.
- 3. Appeals to District Board of Directors. An applicant may appeal a decision of the General Manager on an appeal of an administrative fine to the District Board of Directors within ten (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 District Board of Directors shall act as the approval authority and review the appeal de novo (granting no deference to the prior decision of the General Manager). The decision of the District Board of Directors is final. The violator shall not be permitted to seek a variance pursuant to Section 7.40.042.
- E. Flow-Restricting Devices. Violation of a provision of the mandatory provisions of this Chapter 7.40 is subject to enforcement through installation of a flow-restricting device in the meter.
- F. Misdemeanor. Each violation of the mandatory provisions of this Chapter 7.40 may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days.
- G. Discontinuation of Service. Willful violations of the mandatory conservation measures and water use restrictions applicable during a declared Drought Emergency condition during either drought Response Levels 3 or 4 may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code section 356.
- H. Cumulative Remedies. All remedies provided for herein shall be cumulative and not exclusive.

### **Section 7.40.042     Variance.**

- A. If a District conservation measure disproportionately impacts a District customer, then the person may apply for a variance to the requirements as provided in this section.
- B. The variance may be granted or conditionally granted by the Board, only upon a written finding of the existence of facts demonstrating that the application of this Section 7.40 impacts a District customer in a manner that is disproportionate to

## RMWD LEGISLATIVE CODE

the impacts to District 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 variance shall be a form prescribed by the District.
  2. Supporting Documentation. The application shall be accompanied by documentation, such as but not limited to, water bills, invoices and receipts, photographs, maps, drawings, and other information, including a written statement of the applicant demonstrating those water conservation measures undertaken by the applicant.
  3. Required Findings for Variance. An application for a variance may be denied if it is found that, 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, all of the following:
    - a. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other District customers.
    - b. That because of special circumstances applicable to the property or its use, the strict application of Chapter 7.40 would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.
    - c. That the authorizing of such variance 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 chapter and will not be detrimental to the public interest.
    - d. That the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.
  4. Approval Authority. The General Manager shall exercise approval authority and act upon any completed application no later than 10 days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. The variance shall specify the duration for which the variance applicable to the subject property shall apply.
- C. Appeals to District Board of Directors. An applicant may appeal a decision or condition of the General Manager on a variance application to the District Board of Directors within ten (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 District Board of Directors shall act as the approval authority and review the appeal de novo (granting no deference to the prior decision of the General Manager) by following the variance procedure delineated in Section 7.40.042(A) through (B), (1)-(4) above. The decision of the District Board of Directors is final.