

ORIGINAL

ORDINANCE NO. 65  
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT,  
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA  
WATER CONNECTION POLICY OF THE  
LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT  
RECITALS

A. In accordance with the laws of the United States, the State of California and the State Water Code, the District determines and declares the existence of an emergency condition of water shortage within its service area and hereby enacts the following ordinance for the orderly management of water resources with the intent of ensuring a safe and reliable water supply for the Arrowhead Woods Certificated Water Service Area and hereby establishes the Water Connection Policy of the Lake Arrowhead Community Services District ("LACSD") and adopts and incorporates the emergency situation as also delineated in Ordinance No. 58.

B. The District desires to plan for the orderly management of water resources with the intent of ensuring a safe and reliable water supply for the Arrowhead Woods Certificated Water Service Area; and

C. Urban Water Management Plan On December 13, 2005, the District adopted its 2005 Urban Water Management Plan ("2005 UWMP") that projects and plans for future water demand and water supply in the Arrowhead Woods Certificated Water Service Area; and

D. Rules and Regulations Section 7.0 of the District's Rules And Regulations For Water And Wastewater Service ("Rules and Regulations") sets forth the terms and conditions for the use of the District's water system, application for water service and requirements for the issuance of a Permit to Connect ("Permit") that will allow connection to the District's water system. The requirements of Section 7.0 include, but are not limited to, the following subsections and requirements as summarized below:

Application for Regular Water Service Section 7.2.1 - An application for water service from the District shall be made by the owner of the subject property.

New Connection Service Availability Letter Section 7.5.1 - Prior to applying for a Permit, an Applicant must apply for and receive a Service Availability Letter. Section 7.5.9 - The Service Availability Letter states any limitations regarding the availability of service and specifies general and special conditions that must be met prior to issuance of a Permit.

Service Availability Letter Limitations Section 7.6.1 - A Service Availability Letter does not constitute a Permit or an entitlement to a Permit. No right to a Permit is created by the issuance of a Service Availability Letter or compliance with all conditions set forth in a Service Availability Letter.

Application for Connection to Water System Section 7.9.1 - Subsequent to the issuance of the Service Availability Letter, an Applicant shall make application for a Permit.

Feasibility of New Developments Section 7.20.1 - In addition to complying with all Service Availability Letter and Permit requirements, an Applicant wishing to develop a project that may require construction of a water main to serve a proposed subdivision of lots, extension of a water main to serve an existing property, or construction of other District facility improvements needed for the development project, shall first make a written request to the District for engineering or a study review ("Feasibility Report").

E. Disclosure Statement One of the conditions for issuance of a Service Availability Letter is that Applicants must sign a disclosure statement ("Disclosure") which notifies the Applicant about the State Water Resources Control Board ("State Board") Order WR 2006-0001 In The Matter of Draft Cease and Desist Order No. 262.31-18 and Administrative Civil Liability Complaint No. 262.5-40 (collectively referred to as "Order") against the District. The Disclosure provides, among other things, as follows:

On January 13, 2006, the State Board issued the Order against the District. In general, the Order upholds the District's pre-1914 water right for consumptive purposes, but limits the District to withdrawals up to 1,566 acre feet per year from Lake Arrowhead. The Order directs the District to take certain corrective actions including, for example and not by way of limitation, the following:

1. The District shall within 60 days of the date of the Order submit a plan to initially reduce and subsequently cease the unauthorized diversion and consumptive use of stored water from Lake Arrowhead above the allowable diversion and use amount of 1,566 AF per calendar year. The plan must specify deadlines for implementation of corrective actions that will reduce unauthorized diversions as quickly as practicable. Under the plan the District shall not exceed an annual withdrawal of 1,566 AF from Lake Arrowhead during 2008 and during all subsequent years. The District shall consider all practical measures to reduce demand or increase supplies, including a moratorium on new water service commitments. The District shall modify the plan in accordance with directions from the Chief of the Division of Water Rights ("Division Chief") and shall implement the final plan after the Division Chief approves it.

2. The District shall submit the following reports to the Division Chief semiannually:

(a) A progress report identifying the conservation measures taken and estimated resulting reduction in total diversion of water from Lake Arrowhead; and

(b) A monthly reservoir operation report for Lake Arrowhead identifying monthly storage elevation, reservoir capacity, change in storage, evaporation loss, bypass or spills, calculated natural inflow, purchase or groundwater inflows, and diversions from the reservoir.

3. The District shall immediately cease any increase in its withdrawal of water from Lake Arrowhead above its total withdrawal for consumptive uses in 2005.

4. The District shall comply with any written directive of the Division Chief regarding the unauthorized diversion of water from Lake Arrowhead until such time as the State Board directs otherwise.

It is possible that the Order could be challenged or otherwise made subject of an appeal or other proceeding. If an entity or individual were to bring such a challenge, it is possible the Order could be changed. It is not possible at this time to determine whether such a change might include the requirement of a moratorium on new water service commitments. In addition, the State Board and its Division Chief will continue to have authority over the District regarding approvals and directives. It is not possible at this time to determine the scope, nature or substance of said directives and approvals or whether a moratorium may end up being required in connection with said directives and approvals. As a result, the District may not be able to provide any new meter installations to customers regardless of whether they may be in the process of construction. Whether or not an individual has a Service Availability Letter, or any other type of permit or approval, may or may not be the determining factor as to whether that individual can connect to the District's system.

Applicants have been required to sign the above-mentioned Disclosure for Service Availability Letters issued on or after August 10, 2005. Service Availability Letters issued prior to August 10, 2005 also included a disclosure which provided, among other things, as follows:

In March and April of 2003, two Water Rights Complaints were filed against the District with the State Water Resources Control Board ("SWRCB"). On February 10, 2004, a draft Report of Investigation ("Draft Report") was issued by staff of the SWRCB. The Draft Report concludes, in part, that the District holds a water right to store water in Lake Arrowhead for recreation purposes only and not for providing water service. Unless or until the District successfully challenges the Draft Report, settles the matter with the complainants who filed the Complaints, or otherwise resolves the matter, there will be a question as to whether the District has the water right to use the water of Lake Arrowhead for providing water service.

F. Status of State Board Order On February 9, 2006 the Board of Directors made a decision to accept the Order. In addition, the District has submitted a plan as required by the Order and as of the date of this Ordinance, said plan is under review by the Division Chief. It is not possible at this time to determine what requirements or limits may be imposed by the Division Chief in connection with approval of the District's plan.

G. Water Conservation Policy On April 27, 2004, the Board of Directors adopted Ordinance No. 58 which became effective June 1, 2004 and established the Water Conservation Policy of the Lake Arrowhead Community Services District. Section 4 of Ordinance No. 58 sets forth Permanent Water Conservation Policies Applicable to All Customers which shall remain in effect as continuous conservation measures. Due to the water shortage, as a condition of service and in order for an applicant to receive a Permit, the applicant shall comply with the District's Mandatory Landscape Standards.

H. Authority To Impose Restrictions This Ordinance and its requirements are adopted pursuant to: (a) Water Code Section 350 et seq. which authorizes the adoption of regulations and restrictions on the delivery and consumption of water; (b) Water Code Sections 375 et seq. and 1009; and (c) Water Code Section 71640 that Government Code § 61100(a) incorporates into the Community Services District Law; all of which authorize the District to adopt a water conservation program to reduce the quantity of water in order to conserve the District's water supply;

I. Effectiveness This Ordinance shall be effective as of June 9, 2006. Within 15 days after its adoption, this Ordinance shall be published in the *Mountain News* newspaper. This Ordinance was introduced, a first reading was done as to the title only, and further reading was then waived after a public hearing and at a regular meeting of the Board held on April 25, 2006. This Ordinance was passed by the Board during its Regular Meeting on May 9, 2006. Notice of the time and date of the Regular Meetings was given in accordance with the legal requirements for posting of the notice and agenda for such Regular Meetings.

J. Historical Average of Applications Since August 1, 2005, when an earlier draft of the Order was released by the State Board, the District has been receiving an unusually high number of applications for new water connections. Historically the average annual number of new connections to the District's water system was sixty-seven (67) or an approximate increase of 1% per calendar year (on an annual basis for the period from 1995 to 2004). From January 1, 2005 to December 31, 2005 the District installed 133 new water meters or approximately twice this historical average.

K. Yearly Increase In New Connections The assumptions used in the 2005 UWMP as well as the plan to satisfy the SWRCB Order include a 1% per year increase in water demand and number of new water connections based on the above-mentioned historical average of new connections per year and the factors which are to be considered in connection with said 2005 UWMP update.

L. New Water Connection Policy The District desires to adopt a policy to govern the allocation of water meters for new connections to the District's water system for service within the Arrowhead Woods Certificated Water Service Area in order to address the following circumstances as set forth above: (a) the Order; (b) the water shortage and need for regulations and restrictions on the delivery and consumption of water resulting from the Order; (c) the anticipated water shortage emergency condition which could prevail from the Order, since the Order could lead to a situation where the ordinary demands and requirements of customers cannot be met without depleting the current water supply to the extent there would eventually be insufficient water for human consumption, sanitation and fire protection; (d) the substantial increase in water service availability applications and water service applications for permits to connect which are being filed and installed as a result of the Order; (e) the conclusions and requirements resulting from the 2005 UWMP and plan to satisfy the Order; and (f) the desire of the District to balance larger subdivision projects with the development of individual properties as well as assuring that a single Applicant cannot obtain all Permits available for certain periods of time, thus limiting development by other Applicants or confining a development to a single area to the exclusion of other areas, especially in-fill areas.

M. Crestline Lake Arrowhead Water Agency (CLAWA) Overlap Area In 2003 the District and CLAWA identified 436 parcels that include 298 residences which are located within the boundaries of the Arrowhead Woods certificated water service area and the CLAWA water service area commonly referred to as the Overlap Area. In July 2003 the District and CLAWA entered into an agreement regarding a State Water Project water supply for the Overlap Area. Under this agreement, the District pays regular rates and charges to CLAWA for delivery of an amount equal to the average annual use of the homes in the Overlap Area. The agreement also addresses delivery of water to satisfy previous use within the Overlap Area as well as advance deliveries for future use in the Overlap Area.

THE BOARD OF DIRECTORS OF THE LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT ORDAINS AS FOLLOWS:

1. Incorporation of Recitals and Rules and Regulations. The Recitals set forth above are incorporated herein and made an operative part of this Ordinance No. 65. The District's Rules and Regulations, as they may be amended from time to time, are hereby incorporated herein. In the event of a conflict between the provisions of this Ordinance and the provisions of the Rules and Regulations, the provisions of this Ordinance shall control. Unless specifically set forth herein, the terms set forth herein shall have the same definition and meaning as any such terms may have under the Rules and Regulations. Upon the effective date of this Ordinance, the Water Connection Policy established by this Ordinance shall be deemed to be part of the Rules and Regulations and the provisions of this Ordinance shall be included in subsequent publications of the Rules and Regulations.

2. Implementation Pursuant to Ordinance No. 58. This Ordinance No. 65 is hereby adopted pursuant to, and in accordance with, the provisions of Ordinance No. 58 and continues the District Water Conservation Policies. In the event of a conflict between the provisions of Ordinance No. 58 and the provisions of this Ordinance No. 65, the provisions of this Ordinance No. 65 shall control.

3. New Water Service Permits Per Month and Per Calendar Year. For the purpose of determining the yearly and monthly maximums a connection shall be considered to be the equivalent of a 5/8 inch size potable water meter. Any larger size meter and the impact on the yearly and monthly maximums shall be subject to approval by the District Board of Directors pursuant to such consistent standards as the Board shall adopt. Water meters for fire sprinkler systems as required by the County of San Bernardino are not included in determining the yearly and monthly maximums. As a condition of service all persons issued a Permit shall comply with the District's Mandatory Landscape Standards. Permits for service in the CLAWA Overlap Area as described in Paragraph M above are not included in determining the yearly and monthly maximums and are hereby exempt from this Ordinance No. 65 to the extent that CLAWA itself has water available under its State Water Project Water Supply Contract.

(a) Yearly Maximum Based on the above-mentioned historical average of new connections per year and the factors which are to be considered in connection with the 2005 UWMP, there shall be a maximum of sixty (60) new Permits for service within the Arrowhead Woods Certificated Water Service Area, allocated per calendar year ("Yearly Maximum").

(b) Monthly Maximum The Yearly Maximum for new Permits shall be granted, and otherwise allocated, to new customers at the maximum rate of five (5) new Permits per month for the months of October through March and five (5) new Permits per month for the months of April through September ("Monthly Maximum") during the applicable calendar year. For the purposes of the remaining months in the calendar year 2006, from and after the effective date of this Ordinance, the Monthly Maximum shall apply and no additional Permits in excess of said Monthly Maximum shall be granted for calendar year 2006. The Yearly Maximum shall then apply to subsequent calendar years commencing with calendar year 2007. The District shall limit the number of Permits granted to any Applicant to two (2) of the new Permits available to be granted per month pursuant to the Monthly Maximum. If there are any new Permits available to be granted at the end of any given month, then said balance for that Monthly Maximum shall be rolled over to the subsequent month. In the event there is any balance of new Permits available to be granted, as a result of said rollover, at the end of any calendar year, said balance shall not be rolled over to the subsequent calendar year. New Permits will be approved on a "first come first serve" basis and are non-transferable. Once the new Permit allocation for a particular month has been exhausted, an Applicant can be placed on a waiting list for the next month for which Permits will be available, if said Applicant satisfies the applicable requirements of the Rules and Regulations. A position on the waiting list cannot be transferred to another owner or property.

(c) Yearly Review For the purpose of analyzing the effectiveness of this statute and the management of the District's water resources, the Board shall review the water usage of the District and appropriateness of the restrictions required by this Ordinance. The yearly review shall be conducted each calendar year beginning January 2007.

4. Water Service Permits For Remodels, Additions or Change of Use The limitations and eligibility requirements set forth in Section 3 of this Ordinance No. 65, in connection with Yearly and Monthly Maximums, shall not apply to Applicants for water service Permits for remodels, additions or change of use under the applicable provisions of the District's Rules and Regulations provided that such Applications do not increase the existing number of connections whether by increased meter size and/or additional meters. As a condition of service, remodel, addition or change of use, the applicant shall comply with the District's Mandatory Landscape Standards.

5. Water Service Permits For Commercial Development The limitations and eligibility requirements set forth in Section 3 of this Ordinance No. 65, in connection with Yearly and Monthly Maximums, shall apply to Applications by a Commercial Customer for a business enterprise under the applicable provisions of the District's Rules and Regulations. As a condition of service for commercial development, the applicant shall comply with the District's Mandatory Landscape Standards.

6. Water Service Permits For Subdivision Projects The limitations and eligibility requirements set forth in Section 3 of this Ordinance No. 65, in connection with Yearly and Monthly Maximums, shall apply to Applications for a Subdivision or multiple unit development Project under the applicable provisions of the District's Rules and Regulations.

7. Granting Water Service Permits

(a) Eligibility for the purposes of the limitations and eligibility requirements set forth in this Ordinance No. 65, a New Water Service Connection will be deemed to be granted to an Applicant upon issuance of the Permit pursuant to the applicable provisions of the District's Rules and Regulations, assuming a Permit is available given the limitations imposed by this ordinance. Applicants for permits shall be placed on a waiting list in order of receipt. Therefore, in order to be granted a Permit or to be placed on a waiting list for a Permit, an Applicant shall bring to the District Engineering office a copy of the approved set of building plans that bear the San Bernardino County Department of Building and Safety's stamp on each page and must have satisfied all applicable requirements of the Rules and Regulations for Connection to the Water System. An Applicant is not entitled to receive a water meter and to connect to the water system unless a Permit has been issued by the District.

(b) Future Service Availability Letters As of the effective date of this Ordinance No. 65, all future Service Availability Letters shall expressly state that the subject Applicant shall not be eligible for a connection under this Water Connection Policy, unless or until issuance of the Permit pursuant to the applicable provisions of the District's Rules and Regulations.

(c) Water Service Installation As of the effective date of this Ordinance No. 65, new water service connections (or water meters) shall only be installed after the foundation has been constructed.

8. Duration of Permit A Permit shall expire six (6) months from the date of issuance if a water meter connection is not completed. Prior to the expiration of the Permit, an applicant may request and be granted a one time extension for an additional six (6) months upon payment to the District, prior to expiration of the Permit, of the difference between the permit connection fees that have already been paid and the permit connection fees at the date of the Permit's expiration. If a water meter connection is not made within one (1) year from the date the Permit is issued, the Permit will expire and become void.



9. CEQA Compliance This Ordinance is statutorily exempt from CEQA because it is a measure enacted pursuant to Water Code section 350 et seq. limiting the number of future water connections necessary to mitigate a water shortage within the District due to the Order as explained herein. Therefore, this Ordinance is exempt from the requirements of CEQA pursuant to Public Resources Code section 21080(b)(4) and State CEQA Guidelines section 15269 (c). In addition, this Ordinance enacting a Water Connection Policy limiting the number of future connections issued by the District is not a project within the scope of CEQA and does not require further environmental analysis. (Pub. Res. Code, § 21065, State CEQA Guidelines, §§ 15060(c) & 15378.) This Ordinance will decrease the rate at which future water connections to the District's water system are issued and will not cause a direct or reasonably foreseeable indirect physical change in the environment. This Ordinance does not change any of the actions of the District, nor the way in which any actions are conducted. Consequently, no direct physical changes in the environment as defined by State CEQA Guidelines, sections 15064(d)(1) and 15382 will result. Furthermore, no indirect physical changes in the environment are anticipated as a result of the Water Connection Policy as defined by State CEQA Guidelines, sections 15064, subdivision (d)(2) and 15382.

10. Severability. If any section, subsection, clause or phrase in this Ordinance No. 65 or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance No. 65 or the application of such provisions to other persons or circumstances shall not be affected thereby. The Board hereby declares that it would have passed this Ordinance No. 65 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.

**ADOPTED** by the Board of Directors of the Lake Arrowhead Community Services District at a regular meeting held on May 9, 2006, by the following votes:

<b>AYES:</b>	Dickinson, Goss & Heyck
<b>NOES:</b>	None
<b>ABSTENTIONS:</b>	None
<b>ABSENT:</b>	Keefe & Sievers

LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT

Mary Ann Dickinson  
Mary Ann Dickinson, President of the Board of Directors of the Lake Arrowhead Community Services District

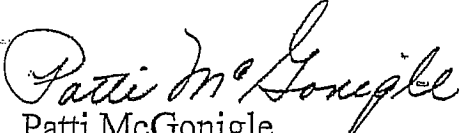
ATTEST:  
P.M. McGonigle  
P.M. McGonigle, Secretary  
Lake Arrowhead Community Services District

(SEAL)

LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT

STATE OF CALIFORNIA            )  
  :  
COUNTY OF SAN BERNARDINO)

I, Patti McGonigle, Executive Assistant and Clerk of the Board, do hereby certify that Ordinance No. 65, *An Ordinance of the Board of Directors of the Lake Arrowhead Community Services District, County of San Bernardino, State of California Water Connection Policy of the Lake Arrowhead Community Services District Recitals* has been duly published.

  
Patti McGonigle  
Executive Assistant and  
Clerk of the Board of the  
Lake Arrowhead Community  
Services District