

URGENCY ORDINANCE No. 1024
AN URGENCY ORDINANCE OF THE CITY COUNCIL OF SAN JUAN
CAPISTRANO, CALIFORNIA, AMENDING TITLE 6, CHAPTER 12, OF
THE SAN JUAN CAPISTRANO MUNICIPAL CODE PERTAINING TO
WATER CONSERVATION.

WHEREAS, the Governor of the State of California has declared a drought in the State, and the State of California Water Resources Control Board (SWRCB) has promulgated emergency regulations applicable to all water consumers and all urban water suppliers (including the City of San Juan Capistrano) to conserve water; and

WHEREAS, Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports;" and

WHEREAS, on August 19, 2014, the City declared a Stage 2 Water Shortage Contingency Plan and adopted Water Conservation Ordinance No. 1017; and

WHEREAS, on May 5, 2015, the City amended the Stage 2 Water Shortage Contingency Plan and adopted Water Conservation Ordinance No. 1023; and

WHEREAS, on May 5, 2015, the SWRCB approved the emergency regulations, which required, among other things, the City to immediately reduce water use by 28% compared to 2013, beginning in June 2015; and

WHEREAS, the adoption and implementation of the City's amended ordinance requires immediate action of an Urgency Ordinance to comply with the SWRCB May 5, 2015, directive; and

WHEREAS, the City must continue to report its progress to implement the emergency regulations, provide descriptive statistics on water conservation compliance along with enforcement efforts, and understands that the SWRCB expects the City to have taken necessary actions to reduce water use by 28%;

WHEREAS, reducing water use by 28% requires immediate action in adopting an Urgency Ordinance to add an additional water shortage stage with additional restrictions;

NOW, THEREFORE THE CITY COUNCIL OF SAN JUAN CAPISTRANO DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Authority. This Urgency Ordinance amending Title 6, Chapter 12, of the San Juan Capistrano Municipal Code is enacted pursuant to Water Code §§ 375, et seq. and Government Code §§ 36931 et seq.; 37100 and 38742.

SECTION 2: Findings.

- A. The findings made by the City Council in Ordinance No. 941, Ordinance No. 1017, and Ordinance No. 1023 are hereby incorporated by reference and adopted as findings herein.
- B. Severe drought conditions continue to exist statewide, and such conditions threaten the City's future ability to meet all of its water demands. Such conditions have also resulted in the State imposing mandatory reductions on total water use on urban water suppliers throughout California that must be implemented immediately.
- C. The current drought conditions represent a current and immediate threat to the preservation of the public peace, health, safety, and welfare of the City, and adoption of an urgency ordinance that will take effect immediately pursuant to Government Code §§ 36934 and 36937(b) and Water Code § 376 is justified and legally necessary to ensure the City is in compliance with the SWRCB emergency regulations.
- D. In order to immediately comply with the SWRCB emergency regulation and ensure local water supplies remain sustainable, the City Council finds that this ordinance and the amendments set forth herein must be adopted as an urgency ordinance, effective upon adoption, to protect the public health, safety and welfare, while also preventing unnecessary harm to the City's economy and lawful existing water users which would result without amending Ordinance No. 1017 and Ordinance No. 1023.

SECTION 3: Title 6, Chapter 12, is hereby amended to read as follows:

Sec. 6-12.01. Short Title.

This chapter may be cited as the Water Conservation Ordinance of the City of San Juan Capistrano. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.02. Purpose.

The purpose of this chapter is to establish standards and procedures for year-round water conservation, to promote the efficient use of water, to reduce or eliminate

the waste of water in the City, to complement the City's water quality regulations and urban runoff reduction efforts, and to enable implementation of the City's water shortage contingency measures. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.03. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Billing cycle" shall mean the billing period in which a customer's water use is measured for purposes of calculating the amount of the water service fees that shall be collected for the water service provided.

"Calculated water budget" means the water budget calculated each month by the City for each customer.

"CCF" shall mean one hundred cubic feet.

"City" shall mean the City of San Juan Capistrano, Orange County, California.

"City Water Service Area" shall mean the City of San Juan Capistrano, Orange County, California, and adjoining sections of other cities and unincorporated areas with water service provided by the City of San Juan Capistrano.

"Customer" shall mean a person who, according to the City's records, has an account with the City to receive water service to a parcel.

"Effective date" shall mean the date the ordinance adopting this chapter becomes effective.

"Enforcing attorney" shall mean the City Attorney, acting as counsel to the City of San Juan Capistrano and his/her designee, or the District Attorney or City Prosecutor, which counsel is authorized to take enforcement action as described herein.

"Impervious surface" shall mean a constructed or modified surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, sidewalks, driveways, v-ditches, gutters and roadways.

"Major water users" shall mean those customers within any specific customer classification who used or consumed more than the mathematical average use for that classification during the previous billing period. At the discretion of the City Manager, and based on the severity of shortage, this definition may be expanded to include all customers using more than nine (9) CCF of water per month.

"Monthly Drought Limit" shall mean the amount of water each customer is allowed to use each billing cycle to avoid incurring penalties for excessive water use

when a Stage 2 or higher water shortage stage has been declared. The basis for calculating a customer's monthly drought limit shall be established in the resolution adopted by the City Council declaring the applicable stage pursuant to Section 6-12.06.

"Median" shall mean a landscaped area within traffic lanes.

"Nonessential water use" shall mean the application or use of water for functions or additional activities that do not have any health or safety impacts, are not required by regulation, and are not part of the core function or business process at a site. This would include, but not be limited to, uses such as the watering of planters and landscape at a car wash, the washing of cars on display at a car dealer, and other activities that a reasonable person would concur will reduce extra use of water, while not affecting a given enterprise in a fundamental way.

"Parkway" shall mean a landscaped area adjacent to a sidewalk and/or roadway ten (10) feet wide or less.

"Paved surface" shall mean any asphalt or concrete street, driveway, alley, gutter, sidewalk, walkway, or other surface impermeable to water.

"Person" shall mean any natural person, property owner, renter, or lessee, as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, homeowners' association, joint venture, business entity, or other similar entity, or the property management company, property manager, agent, employee or representative of any of the above.

"Properly programmed" shall refer to a weather-based or sensor-based irrigation controller that has been programmed according to the manufacturer's instructions and site-specific conditions.

"Quasi-public entity" shall mean an entity, other than a governmental agency, whether characterized by statute as a public corporation, public instrumentality, or otherwise, that is expressly created, by statute, for the purpose of administration of a state or local function.

"Sensor-based irrigation controller" shall mean an irrigation controller that operates based on input received from any combination of sensors, such as rain, solar radiation, and soil moisture sensor, installed within and/or around the irrigated landscape area.

"Stormwater drainage system" shall mean street, street gutter, sidewalk, alleyway, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of or tributary to the county-wide stormwater runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any National Pollutant Discharge

Elimination System (NPDES) permit co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of stormwater.

"Urban runoff" shall mean all flows in the stormwater drainage system and consists of stormwater and non-stormwater flows.

"Water waste" shall mean uses of water that are prohibited or limited, going beyond the purpose of necessary or intended use, including area runoff, and which could reasonably be prevented.

"Water Conservation Coordinator" is the City Manager or his/her designee.

"Water Quality Regulations" are the stormwater regulations in Chapter 14 of Title 8 of the San Juan Capistrano Municipal Code.

"Weather-based irrigation controller" shall mean an irrigation controller that operates based on evapotranspiration rates and historic or real-time weather data. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.04. Application.

This chapter shall apply within the City's Water Service Area, which includes the corporate boundaries of the City and those areas and properties outside the City's boundaries connected to the City's water distribution system, and that receive water service from the City. Compliance with the provisions of this chapter shall be a condition of water service within this Water Service Area. If any conflict or difference is noted between this chapter and the City's Landscape Water Conservation Standards (Title 9, Chapter 3, Article 5, Section 9-3.527), the more restrictive shall apply. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.05. Mandatory Restrictions on Water Waste at All Times.

The following activities or measures are in effect year-round, regardless of whether or not a water shortage stage has been declared. During water shortage stages, additional and more restrictive measures may be put in place. These are described in Section 6-12.06.

- (a) Repair of Plumbing, Sprinkler and Irrigation System. Any owner, manager, or person responsible for the day-to-day operation of any premises shall within twenty-four (24) hours after such person has been notified of leaks, breaks, or defects, initiate steps to repair any leaking, broken or defective water pipes, faucets, plumbing fixtures, other water service appliances, sprinklers, watering or irrigation systems, or distribution systems which cause or may cause water waste or runoff from such, and shall thereafter diligently and promptly pursue such repair work to completion within a reasonable amount of time, as

determined by the City Manager or his/her designee, unless a variance is obtained from the City.

(b) Watering/Irrigation.

(1) No person shall water his/her lawn or landscaping or permit his/her lawn or landscaping to be watered between the hours of 9:00 a.m. and 6:00 p.m., except as provided below:

(A) Persons may operate the irrigation system between the hours of 9:00 a.m. and 6:00 p.m. for the purpose of installing, repairing or routine maintenance of the same.

(B) Persons may water their lawn or landscaping between the hours of 9:00 a.m. and 6:00 p.m. using any of the following methods:

(i) Drip, bubbler, or soaker irrigation hardware or emitters;

(ii) By hand, using a bucket; and/or

(iii) By hand, using a hose with an automatic shutoff nozzle or a hose-end sprinkler with a radius of not more than ten (10) feet, if such sprinkler causes no overspray or runoff.

(2) No person shall allow lawns, groundcover, shrubbery, other landscape material, or open ground to be watered at any time while it is raining or within 48 hours of measurable rainfall of one tenth (1/10) inch or more. Automatic irrigation controllers may be turned off manually, or connected to a rain shutoff device.

(3) Effective July 1, 2010, all irrigation controllers associated with dedicated landscape meters shall have a rain shutoff device which overrides the program in the event of rainfall.

(4) Landscape irrigation system(s) shall be adjusted and operated to eliminate overspray and/or runoff onto impervious surfaces such as sidewalks, driveways, V-ditches, gutters and roadways.

(5) The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development is prohibited.

(c) Washing of Vehicles. No person shall use a water hose to wash any car, truck, boat, trailer, bus, recreational vehicle, camper, tractor, or any other vehicle, or

any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. All wash water from vehicle washing/cleaning activity must be prevented from discharging to the stormwater drainage system.

(d) Commercial Car Washes.

(1) Commercial car wash facilities, including automotive retailers, shall not permit the washing of any boat or vehicle in such facility or on its premises, other than by the following methods:

(A) Use of mechanical automatic car wash facilities utilizing water recycling equipment;

(B) Use of a hose that operates on a timer for limited time periods and shuts off automatically at the expiration of the time period;

(C) Use of a hose equipped with an automatic shutoff nozzle; and/or

(D) Use of bucket and hand washing.

(2) All wash/rinse water must be captured and recycled or discharged into the sanitary sewer system through an appropriate treatment system, after obtaining a special discharge permit from the South Orange County Wastewater Authority.

(3) All new commercial conveyor car wash facilities shall be equipped with a water recycling system.

(4) Mobile car detailing enterprises using water shall have a City business license and carry a statement of approval by the City Manager or his/her designee as to knowledge of and compliance with the City's Water Quality Regulations, and the required Best Management Practices and techniques to prevent runoff to storm drains.

(e) Washing of Equipment and Machinery. No person shall use a water hose to wash any type of equipment or machinery, or any portion thereof, unless the hose is equipped with an automatic shutoff nozzle. All wash water from such washing/cleaning activity must be prevented from discharging to the stormwater drainage system. All wash water from such washing/cleaning containing chemicals shall be discharged into the sanitary sewer system through an appropriate treatment system. Any person discharging water containing chemicals is required to first obtain a special discharge permit from the South Orange County Wastewater Authority before such water may be discharged to the sanitary sewer.

- (f) **Cleaning of Structures.** No person shall use water through a hose, including pressure-washing, to clean the exterior of any building or structure unless such hose is equipped with a shutoff nozzle. All wash water from such activity must be prevented from discharging to the stormwater drainage system, and shall comply with the City's Water Quality Regulations and Best Management Practices.
- (g) **Cleaning of Surfaces.** No person shall use water through a hose, including pressure-washing, to clean any sidewalk, driveway, roadway, parking lot, sports court, or any other outdoor paved or hard-surfaced area, unless all wash water from such activity is prevented from discharging to the stormwater drainage system. Such water-using cleaning may only occur for health and safety reasons and comply with the City's Water Quality Regulations and Best Management Practices. General maintenance cleaning shall be performed by other means such as by using a broom.
- (h) **Swimming Pools and Spas.** No person shall empty and refill a swimming pool except to prevent or repair structural damage or to comply with public health regulations, or upon written recommendation of a pool maintenance professional. Discharge of pool or spa water, other than directly to the sanitary sewer system, shall be consistent with the City's Water Quality Regulations and Best Management Practices. Discharge of pool or spa filter backwash water to the stormwater drainage system is prohibited. All pools and spas shall be equipped with a water recirculation device. The use of a pool/spa cover is strongly encouraged to prevent evaporative water loss, and achieve additional energy and chemical saving benefits.
- (i) **Fountains, Decorative Basins, Ponds, Lakes, Waterways.** No person shall use water to operate or maintain water levels in decorative fountains, basins, ponds, lakes, and waterways unless a recirculation device is in use. Discharge of water, other than directly to the sanitary sewer system, shall be consistent with City's Water Quality Regulations and related Best Management Practices. Discharge of filter backwash water to the stormwater drainage system is prohibited.
- (j) **Cooling Systems.** No single pass cooling systems shall be permitted in new connections to the potable water system.
- (k) **Commercial Laundry Facilities, Laundromats and Common Area Laundry Rooms.** New commercial laundry facilities shall be equipped with a water reclamation system for reuse of rinse water. Laundromats and common area laundry rooms shall install high efficiency clothes washing machines, as older machines are replaced.

- (l) Visitor-Serving Facilities. The owner and manager of each hotel, motel, restaurant, and other visitor-serving facilities shall ensure that such facilities display, in places visible to all customers, placards or decals promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited. Hotels and motels shall give guests the option to reuse towels and linens.

- (m) Public and Quasi-Public Entities. All public and quasi-public entities shall display, in visible locations in all restrooms, kitchens, and dining areas, placards or decals promoting public awareness of the need for water conservation and/or advising the public that waste of water is prohibited.

- (n) Food Service Facilities.
 - (1) Drinking Water. Food service facilities, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased in the City, shall not serve drinking water other than upon request.

 - (2) Dishwashing and Garbage Disposals. All commercial kitchens with dishwashing facilities shall encourage the activity of scraping food waste into a garbage can rather than using a garbage disposal. Garbage disposals are prohibited in all new food facilities. All pre-rinse spray nozzles should have been retrofitted to models using 1.6 gallons per minute or less, by July 1, 2010.

 - (3) Other Water-Using Activities. Defrosting food with running water shall be avoided and discouraged. If using a hose for wash down of kitchens, garbage areas, or any other area required by the health department, or for sanitation reasons, it shall have a positive shutoff nozzle. Scoop sinks (dipper wells) shall be set at minimum flow at all times, and during hours of operation carefully monitored to avoid using water unnecessarily when the scoop sink is not in active use.

 - (4) New or Remodeled Kitchens. All other water-using equipment in new or remodeled kitchens shall use the best available water conserving technology.

- (o) Construction.
 - (1) No potable water may be used for compacting or dust control purposes in construction activities where there is a reasonably available source of recycled or other non-potable water approved by the State Water Resources Control Board and appropriate for such use. The use of recycled water on construction projects requires a permit from the State Water Resources Control Board Department of Drinking Water (DDW) in conjunction with the

Orange County Health Care Agency (OCHCA). This condition must be identified and specified on construction drawings submitted to the City for review. Upon City written approval, the use of potable water for construction or grading purposes is allowed if recycled water is not reasonably available or to augment an interruptible supply of recycled water, unless the City has declared a stage of the Water Shortage Contingency Measures that prohibits the use of potable water for these activities.

- (2) All water hoses used in connection with any construction activities shall be equipped with an automatic shutoff nozzle when an automatic shutoff nozzle can be purchased or otherwise obtained for the size or type of hose in use.
- (3) All water used on a construction site shall be prevented from entering any part of the stormwater drainage system.
- (p) Use of Hydrants. No person may use water from any fire hydrant for any purpose other than fire suppression or emergency aid, without first obtaining a City hydrant meter account or written approval from the City Manager or his/her designee. Absent a meter or written permission, current water theft and meter tampering fees will be applied as appropriate.
- (q) Water Spillage and Runoff. Every person shall minimize runoff beyond the immediate area of use. Every person is deemed to have under his/her control at all times his/her water distribution lines and facilities, and to know the manner and extent of his/her water use and excess runoff. Gutter flooding is specifically prohibited.
- (r) Indiscriminate Use. No person shall cause or permit the indiscriminate running of water not otherwise prohibited above which is wasteful and without reasonable purpose.
- (s) Public Health and Safety. These regulations shall not be construed to limit water use which is immediately necessary to protect public health and/or safety. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.06. Water Shortage Contingency Measures.

The City Council by resolution shall require or impose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies, or to respond to local or regional water shortage conditions and emergencies. Depending on the expected duration and severity of the shortage, these measures may include, but are not limited to, some or all of the actions listed in the following five (5) stages of water conservation, which shall take effect upon the adoption of a resolution by the City Council declaring the specific stage. In an immediate emergency, the City Manager or his/her designee

may make the declaration, which will be ratified by the adoption of a resolution by the City Council at a subsequent meeting. Each elevated stage will include the elements of the previous stage(s), and are intended to be more restrictive than the previous stage(s). Upon the adoption of the resolution declaring a drought stage, the conservation measures for the identified stage shall be in effect immediately unless otherwise determined by the City Council in such resolution. The declaration of each stage shall be communicated to the media.

The prohibited uses of water are not applicable to that use of water necessary for public health and safety or for essential governmental services such as police, fire and, other similar emergency services.

(a) Stage 1: Water Watch. The following voluntary water conservation measures are requested to be undertaken:

- (1) All City staff to be alerted to the Stage 1 conditions, supplied with educational material, and directed to actively intervene and educate the public, when excessive use is observed.
- (2) All nonessential water use shall cease, water leaks shall be repaired immediately, and a reduction in water use for landscape irrigation, swimming pools, water features (i.e. lakes, ponds, fountains, etc.), construction, vehicle and equipment washing, and washing of structures and surfaces shall be encouraged from all customer accounts.

(b) Stage 2: Water Alert. During Stage 2 the following additional water conservation measures shall apply:

- (1) No Customer shall use potable water in excess of his/her monthly drought limit. Any customer whose potable water use exceeds his/her monthly drought limit for a billing cycle shall receive a notice in his/her water bill that his/her water use for the billing cycle is a violation of the water conservation regulations then in effect. Any customer whose potable water use for three consecutive billing cycles exceeds his/her monthly drought limit during the three month cumulative period, shall pay a civil administrative penalty for each CCF of water used in excess of his/her three month cumulative monthly drought limit. The penalty shall be in addition to any applicable water service charges imposed for the potable water delivered to the customer. The amount of the penalty shall be equal to 50% of the then current tier 3 rate per CCF billing unit (one billing unit equals 748 gallons).

- (2) Outdoor irrigation of ornamental landscapes or turf with potable water will be limited to no more than two (2) days per week on an assigned schedule established by the City.
 - (3) Irrigation of ornamental turf with potable water on medians is prohibited.
 - (4) Washing of pavement and other surfaces shall be prohibited. Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas except to alleviate immediate fire or sanitation hazards.
 - (5) Cleaning of structures, using water from a hose, shall be prohibited.
 - (6) The emptying and refilling of a swimming pool, spa, or other water features excluding normal maintenance of water levels due to evaporation, is prohibited.
- (c) **Stage 3: Water Warning.** During Stage 3 the following additional water conservation measures shall apply:
- (1) No Customer shall use potable water in excess of his/her monthly drought limit. Any customer whose potable water use exceeds his/her monthly drought limit for a billing cycle shall receive a notice in his/her water bill that his/her water use for the billing cycle is a violation of the water conservation regulations then in effect. Any customer whose potable water use for three consecutive billing cycles exceeds his/her monthly drought limit during the three month cumulative period, shall pay a civil administrative penalty for each CCF of water used in excess of his/her three month cumulative monthly drought limit. The penalty shall be in addition to any applicable water service charges imposed for the potable water delivered to the customer. The amount of the penalty shall be equal to 100% of the then current tier 3 rate per CCF billing unit (one billing unit equals 748 gallons).
 - (2) Washing of autos, trucks, trailers, boats, airplanes and other types of mobile equipment is prohibited, other than at a car wash. Such washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning such as garbage trucks and vehicles used to transport food and perishables. An exception will also be made for vehicles which are too fragile for, or would be damaged by, an automated car wash facility. These vehicles may be washed using a bucket and/or a minimum amount of water through a hose equipped with an automatic shut off nozzle. Washing of autos, vans, trucks, trailers, boats, airplanes and other types of mobile equipment is limited to once a week.

- (3) New or rehabilitated turf shall not be installed in any landscape, whether from plugs, sod, or seed. Homeowners' Associations shall not require landscaping to be installed at new homes. Homeowners' Associations may require a layer of weed barrier material and three (3) inches of mulch in lieu of landscaping until plants can be installed.
 - (4) The use of potable City water for construction or grading purposes is prohibited. Construction water shall not be used for earth work or road construction purposes, unless recycled water is available and has been approved for such use. Recycled water supply is to be considered interruptible and may not be supplemented with potable water. An exception to these restrictions may be granted for projects nearing completion, and having a public benefit deemed essential to the community by the City Manager or his/her designee. Requests for such exceptions must be made in writing to the City Manager or his/her designee, and will be considered with reference to the nature of each individual project and to all phases of such projects.
- (d) **Stage 4: Water Crisis.** During Stage 4 the following additional water conservation measures shall apply:
- (1) No Customer shall use potable water in excess of his/her monthly drought limit. Any customer whose potable water use exceeds his/her monthly drought limit for a billing cycle shall receive a notice in his/her water bill that his/her water use for the billing cycle is a violation of the water conservation regulations then in effect. Any customer whose potable water use for three consecutive billing cycles exceeds his/her monthly drought limit during the three month cumulative period, shall pay a civil administrative penalty for each CCF of water used in excess of his/her three month cumulative monthly drought limit. The penalty shall be in addition to any applicable water service charges imposed for the potable water delivered to the customer. The amount of the penalty shall be equal to 200% of the then current tier 3 rate per CCF billing unit (one billing unit equals 748 gallons).
 - (2) All lawn watering with potable water is prohibited. All other landscape water shall be reduced to one (1) day per week and the object of any irrigation water applied shall be solely to save trees.
 - (3) The operation of any ornamental fountain or similar structure is prohibited, unless it contains aquatic life such as koi. Such water features which require recirculating water to maintain aquatic life must be operated in such a way as to prevent all splashing or blowing of water outside the

containment structure. Bird baths containing fewer than five (5) gallons of water are exempted.

- (4) Washing of autos, trucks, trailers, boats, airplanes and other types of mobile equipment is prohibited. Such washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning such as garbage trucks and vehicles used to transport food and perishables.
- (5) Subject to the declaration of a water shortage emergency, no new building permits or will-serve letters will be issued.
- (6) New construction permits for pools and spas will not be issued. Pools and spas under construction at the time Stage 4 is declared may be completed and filled.
- (7) The use of potable City water for construction or grading purposes is prohibited even for such exceptions made under Stage 3.
- (8) The use of a temporary fire hydrant meter from the City, or otherwise using potable water through a temporary City water service including jumpers is prohibited. The use of potable water from fire hydrants shall be limited to fire fighting and related activities, or other activities necessary to maintain the health, safety and welfare of the public.
- (9) New meters or water services will not be issued, except meters installed to replace an existing jumper.

(e) **Stage 5: Water Emergency.** During Stage 5 the following additional water conservation measures shall apply:

- (1) No Customer shall use potable water in excess of his/her monthly drought limit. Any customer whose potable water use exceeds his/her monthly drought limit for a billing cycle shall receive a notice in his/her water bill that his/her water use for the billing cycle is a violation of the water conservation regulations then in effect. Any customer whose potable water use for three consecutive billing cycles exceeds his/her monthly drought limit during the three month cumulative period, shall pay a civil administrative penalty for each CFF of water used in excess of his/her three month cumulative monthly drought limit. The penalty shall be in addition to any applicable water service charges imposed for the potable water delivered to the customer. The amount of the penalty shall be equal to 400% of the then current tier 3 rate per billing unit (one billing unit equals 748 gallons).

- (2) All outdoor irrigation is prohibited.
- (3) Swimming pools, spas, ponds, lakes, and other water features shall be prohibited from filling for any reason including evaporation.
- (4) Use of potable water for agricultural or commercial nursery purposes, except for livestock water, is prohibited.
- (5) No potable water shall be used for air conditioning purposes. An exception may be granted for cooling towers at sites such as schools, office buildings, and food facilities, if the equipment is being maintained at a demonstrable level of water use efficiency. City staff is authorized to inspect such facilities and may require a written statement confirming the cycles of concentration maintained.
- (6) The use of potable water for commercial, manufacturing or processing purposes shall be reduced in volume by fifty (50) percent. (Ord. No. 941, § 4, 9-2-2008; Ord. No. 1017, § 3, 8-19-2014)

Sec. 6-12.07. Enforcement and Administration

The City Manager and all officers and employees of the City, including all ex officio officers and employees, shall enforce all the provisions of this chapter. The City Manager or his/her designee shall implement and administer this chapter. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.08. Violations, Notices, and Remedies.

- (a) Notice of Noncompliance for Excessive Water Use. For Stages 2 through 5 of the Water Shortage Contingency Measures, water use in excess of each customer's monthly drought limit is prohibited and is a violation. Notice of the violation and the associated penalties as defined in this chapter will appear on the customer's monthly water bill. The notice shall include the following:
 - (1) State a general description of the violation; and
 - (2) Include appeal and hearing rights and procedures.

- (b) Compliance Remedies for Excessive Water Use. The City may terminate water service to any customer, or place a flow restricting device on the meter of any customer whose water use exceeds his/her monthly drought limit for five (5) consecutive months during Stages 2 through 5. The City may also pass on any penalties, surcharges or increased charges incurred by the City as a result of the customer's violation.
- (c) Notice of Noncompliance for all Other Violations. For all other violations other than excessive water use, if any person fails or refuses to comply with this chapter, the City Manager or his/her designee shall provide written notice of the violation and an opportunity to correct the noncompliance. Each and every day that the violation occurs or continues shall be considered a new and separate offense. A copy of the written notice shall be mailed to the address of the violation, to the party who is billed for the water, or to the owner of the property, as appropriate. The written notice shall include the following:
- (1) Be posted or presented at the site of the noncompliance;
 - (2) State the time, date, and place of violation;
 - (3) State a general description of the violation;
 - (4) State the means to correct the violation;
 - (5) State a date by which correction is required; the period for compliance will be shortened depending on any applicable water conservation contingency stage;
 - (6) State the possible consequences of failing to correct the violation; and
 - (7) Include appeal and hearing rights and procedures.
- (d) Compliance Remedies. Except for excessive water use violations, if a person fails to correct the violation within the time specified in the written notice, the City Manager or his/her designee may take one or more of the following actions:
- (1) Pass on any penalties, surcharges or increased charges incurred by the City as a result of the person's violation.
 - (2) For residential accounts, impose a civil administrative penalty of not more than one hundred dollars (\$100.00) for a first violation, two hundred dollars (\$200.00) for a second violation, and five hundred dollars (\$500.00) for each additional violation occurring within the calendar year.

- (3) For commercial, industrial, construction, and irrigation accounts impose a penalty of not more than two hundred dollars (\$200.00) for a first violation, four hundred dollars (\$400.00) for a second violation, and one thousand dollars (\$1,000.00) for each additional violation occurring within the calendar year.
 - (4) Terminate water service to the site of the violation, or place a flow restricting device on the meter.
 - (5) Abate the violation as a nuisance in accordance with Section 6-12.09 of this chapter.
- (e) Regulatory Fine Recovery. In the event that a person causes a regulatory agency to levy a fine against the City resulting from the person's violations of the provisions of this chapter, such person shall be required to reimburse the City for the fine and associated administrative costs.
- (f) Administrative Hearing for Notices of Noncompliance, Invoices for Costs and Adverse Determinations. Any person receiving a notice of noncompliance, an invoice for costs, or any person who is subject to any adverse determination made pursuant to this chapter, may appeal the matter by requesting an administrative hearing.
- (g) Request for Administrative Hearing. Any person appealing a notice of noncompliance, an invoice for costs or an adverse determination shall, within fifteen (15) days of receipt thereof, file a written request for an administrative hearing, accompanied by an administrative hearing fee as established by separate resolution, with the Office of the City Clerk. Thereafter, a hearing on the matter shall be held before a Hearing Officer appointed by the City Manager or his/her designee within forty-five (45) business days of the date of filing of the written request unless, in the reasonable discretion of the Hearing Officer and pursuant to a written request by the appealing party, a continuance of the hearing is granted.
- (h) Hearing Proceedings. The City officer and/or employee issuing the notice of noncompliance, invoice for costs or adverse determination shall appear in support of the notice, invoice for costs, or determination, and the appealing party shall appear in support of dismissal of the notice, determination, and invoice for costs. Each party shall have the right to present testimony, present their own witnesses and other documentary evidence as necessary for explanation of their case. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper admission of such evidence over an objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct

evidence but shall not be sufficient in itself to support a finding by the Hearing Officer, unless it would be admissible over an objection in civil actions. The rules of privilege shall be effective to the same extent they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. The appealing party shall notify the City forty-eight (48) hours in advance of the hearing, if legal counsel will be present on their behalf. The provisions of Chapter 6 of Title 1 of this Code shall not apply.

- (i) Final Decision and Appeal. The final decision of the Hearing Officer shall be issued within thirty (30) days of the conclusion of the hearing and shall be delivered by first-class mail, postage prepaid, to the parties. The decision shall include notice that it is final and any legal challenge to the final decision shall be made pursuant to the provisions of Code of Civil Procedure Sections 1094.5 and 1094.6 and shall be commenced within ninety (90) days following its issuance. The administrative hearing fee paid by a prevailing party in an appeal shall be refunded. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.09. Nuisances, Abatement, and Injunctive Relief.

- (a) Any condition in violation of the prohibitions of this chapter shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code Section 38771.
 - (1) Court Order to Enjoin or Abatement. At the request of the City Manager or his/her designee, the enforcing attorney may seek a court order to enjoin and/or abate the nuisance.
 - (2) Notice to Owner and Occupant. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the City Manager, or his/her designee, shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the property where the nuisance or threatened nuisance is occurring.
 - (3) Reimbursement of Costs. All costs incurred by the City in responding to any nuisance, all administrative expenses and all other expenses recoverable under state law, including reasonable consulting fees and attorney's fees, shall be recoverable from the person(s) creating, causing, committing, permitting or maintaining the nuisance.
 - (4) Nuisance Lien. All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code Sections 38773.1 and 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code Section 38773.1.

- (5) At the direction of the City Manager, or his/her designee, the enforcing attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accord with the conditions and requirements of Government Code Section 38773.5. (Ord. No. 941, § 4, 9-2-2008)

Sec. 6-12.10. Relief from Compliance.

The City Manager or his/her designee may, in writing, grant variances to persons who apply on forms supplied by the City for:

- (a) Usages of water prohibited by Section 6-12.05 or Section 6-12.06, if it is found that a variance is necessary to prevent an emergency condition relating to health and safety, or to prevent a severe hardship on a customer not caused by the customer's own actions or omissions. Additionally, on a case by case basis, customers may present circumstances that would reasonably preclude them from compliance and present an alternative to satisfy the conservation requirement. Further, the person seeking a variance must have demonstrated that he or she has implemented water conservation measures in some other manner that achieves the objectives of this chapter. No variance may be granted for the filling of any decorative fountain, basin, pond, hot tub, spa or permanent swimming or wading pool, unless the filling occurs as the result of performing necessary leak repairs and unless the other provisions of this section are met.
- (b) No variance shall be granted to any customer unless the customer has demonstrated that he or she has already achieved the maximum practical reduction in water consumption as can be achieved by the affected property or business. Any variance granted shall be based upon the water consumption rates of similar water users, properties or businesses. (Ord. No. 941, § 4, 9-2-2008; Ord. No. 1017, § 3, 8-19-2014)

Sec. 6-12.11. Additional Water Conservation Measures.

- (a) In addition to the water conservation requirements established by this chapter, the City Manager or his/her designee is authorized to develop and promulgate additional water conservation plans and measures which shall be directed to achieve target goals for reductions in water consumption as determined by the City Council by resolution from time to time.
- (b) The City may, to the extent authorized by law, elect to contract for the services of any public agency or private enterprise to carry out the building services approvals, inspections, and enforcement authorized by this chapter. (Ord. No. 941, § 4, 9-2-2008)