

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2729

ORDINANCE ESTABLISHING REQUIREMENTS FOR WATER CONSERVATION
AND WATER SHORTAGE RESPONSE

WHEREAS, the City of Oxnard ("city") owns and operates its municipal water supply system; and

WHEREAS, the city's mission as a water supplier is to provide a reliable and affordable drinking water supply of good quality; and

WHEREAS, to meet the community's existing demand for water, the city relies on both local and imported water supplies, including groundwater produced and treated from city facilities, as well as water purchased from the United Water Conservation District, and imported supplies purchased from the Calleguas Municipal Water District, a member agency of the Metropolitan Water District of Southern California; and

WHEREAS, the city, with a current population of over 200,000 residents, is the largest city in Ventura County and is expected to continue to grow; and

WHEREAS, the availability of local and imported water supplies is subject to change based on the variability of local rainfall and the delivery capacity of the State Water Project; and

WHEREAS, State law requires the city to prepare and update every five years its Urban Water Management Plan (see Water Code Sections 10610 *et seq.*); and

WHEREAS, through the process of developing its 2005 update to the Urban Water Management Plan, the City Council determined to update the water conservation and water shortage response portions of the Oxnard City Code; and

WHEREAS, section 15061, paragraph (b)(3), of the California Environmental Quality Act ("CEQA") Guidelines provides that a project is exempt from CEQA if "the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect to the environment;" and

WHEREAS, this ordinance and its implementation does not result in any changes to existing facilities or any increase in the quantity of water available to city customers and thus, does not create the potential for causing any significant effect to the environment; and

WHEREAS, sections 15307 and 15308 of the CEQA Guidelines provide that a project is categorically exempt from CEQA if the activity is taken “to ensure the maintenance, restoration, or enhancement of natural resources or the environment;” and

WHEREAS, the conservation of water resources that may occur during water shortage conditions as a result of this ordinance will help ensure the maintenance and sustainability of certain local and imported water resources.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby find as follows:

1. The adoption of this ordinance is exempt from CEQA for the following reasons:
 - a. CEQA Guidelines section 10561 exempts projects which have no potential for resulting in a physical change in the environment and because this ordinance and its implementation does not result in any changes to existing facilities or any increase in the quantity of water available to city customers, this ordinance does not create the potential for causing any significant effect to the environment.
 - b. CEQA Guidelines sections 15307 and 15308 exempt a project if the activity is taken “to ensure the maintenance, restoration, or enhancement of natural resources or the environment” and the conservation of water resources, particularly during water shortage conditions, will help ensure the maintenance and sustainability of certain local and imported water resources.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part I. Article IX (“Water Shortage Emergency Procedures”) of Chapter 22 of the

Oxnard City Code is repealed and restated in its entirety to read as follows:

“Article IX: “Water Conservation and Water Shortage Response Procedures”

SEC. 22-150. SHORT TITLE.

This Article IX shall be known and cited as the “City of Oxnard Water Conservation and Water Shortage Response Ordinance.”

SEC. 22-151. DECLARATION OF WATER SHORTAGE CONDITIONS.

(A). The city council may, by resolution, declare that water shortage conditions are present within the city. The city council shall establish mandatory water conservation measures associated with the water shortage conditions, as further provided in Section 22-154

(B). This article shall apply to all customers and properties that receive city water service.

(C) All mandatory water conservation measures shall remain in effect until the city council declares that the water shortage conditions have eased so that the shortage responses may be modified or eliminated.

SEC. 22-152. POLICY AND PURPOSE.

(A) During a declared water shortage condition, the water sources available to the city shall be allocated to the maximum beneficial use to the greatest extent possible, and the waste or unreasonable use or unreasonable method of use of water shall be prevented, and water available is to be conserved with a view to the reasonable and beneficial use thereof in the interests of the people of the city and for the public welfare.

(B) The purpose of this article is to provide water shortage condition response procedures to minimize the effect of any existing or threatened water shortage conditions on customers and businesses within the city. These provisions are intended to significantly reduce the consumption of city water over an extended period of time and, thus, extend the availability of water for city customers while reducing the hardship on the city and the general public to the greatest extent possible.

SEC. 22-153. GENERAL PROHIBITION: ENFORCEMENT.

(A) No customer shall make, cause, use, or permit the use of water in a manner contrary to any provision of this article or article VIII in an amount in excess of any reduction levels described in a city council adopted water shortage condition resolution. For any violation of the use restrictions set forth in this article or article VIII, each such customer shall be guilty of a separate offense for each day during which such unauthorized use occurred, continued or was permitted.

(B) In addition to such acts being a criminal violation, any unauthorized water use in violation of this article shall be a public nuisance. The city may prosecute any violation of the use restrictions set forth in this article by means of criminal and civil filings, as deemed appropriate by the city attorney, if such violation continues, after notice has been given.

SEC. 22-154. MANDATORY WATER CONSERVATION MEASURES.

(A) Whenever the city council declares that water shortage conditions exist, the city council shall also designate the severity of the shortage conditions and establish mandatory conservation measures.

(B) The severity of each water shortage condition shall be designated in stages, from 1 to 4. Each stage shall correspond to the degree to which the city has or is likely to suffer reduced availability of water supplies, as follows:

Stage	Severity: Reduction in Available Supplies
1	Up to 15%
2	15-25%
3	25-35%
4	Greater than 35%

(C) Each resolution declaring or modifying a water shortage condition shall include mandatory water use restrictions. Any required reductions in water use shall begin with the customer's next full billing period following the declaration or as otherwise provided in the resolution. Required water use restrictions may include, but are not limited to the following:

(1) Maximum allowed water use based on each customer's average historical use. The manager shall establish a method of determining each customer's historical water use against which any required reductions shall be measured. The methodology for determining each customer's historical use shall be described in the water shortage resolution. The manager shall also assign an historical use to any customer who was not a customer for a period sufficient to establish a reliable historical use. The assigned number shall correspond to the usage of similar locations.

(2) (a) The manager shall grant prior approval for water to be used on a one-time basis for construction and dust control. The user shall submit its water use plan at least thirty days in advance of the proposed use.

(b) The use of potable water for sanitation, irrigation and construction purposes, including but not limited to dust control, settling of backfill, flushing of plumbing lines, and washing of equipment, buildings and vehicles, shall be prohibited in all cases where the manager has determined that use of reclaimed, recycled or other forms of nonpotable water use is a feasible alternative.

(c) Depending upon the severity of the water shortage, the city may not issue new construction meters or short term water use permits unless reclaimed or non-potable water is used, unless potable water use is necessary to protect the health, safety or welfare.

(3) The use of water from fire hydrants shall be limited to fire fighting and related activities and other uses of water for municipal purposes shall be limited to activities necessary to maintain the public health, safety and welfare.

(4) The use of running water from a hose, pipe, or faucet to clean buildings, pavement, tile, wood, plastic, driveways, parking lots, and other paved surfaces, may be limited or prohibited, except for compelling public health and safety reasons. If allowed, a hose with a positive shut-off nozzle must be used.

(5) All restaurants that provide table service shall post, in a conspicuous place, a notice of water shortage conditions and shall refrain from serving water except upon specific request by a customer.

(6) Use of potable water to fill or refill recreational or ornamental lakes, ponds or fountains may be limited or prohibited, or only allowed to operate with reclaimed or recycled water or other approved non-potable water. When using non-potable water, the user shall post appropriate signs in conspicuous areas.

(7) Operators of hotels, motels, and other commercial establishments offering lodgings shall post in each room a notice of water shortage conditions, encouraging water conservation practices.

(8) Any use of water that causes runoff to occur beyond the immediate vicinity of use shall be prohibited.

(9) Watering of lawns, ornamental turf, trees, shrubs, vegetation, landscape and other outside irrigation may be prohibited except between 6:00 p.m. and 9:00 a.m. and only when necessary. Use of a hand held hose with positive shut-off nozzle, bucket, or micro irrigation systems/equipment may be required.

(10) Irrigation may be permitted for ground cover for fire protection purposes and erosion control. Depending on the severity of the water shortage conditions, outside residential, municipal or commercial landscape irrigation may be prohibited.

(11) Boats and vehicles shall be washed only at commercial wash facilities that recycle their wash water; by use of a bucket and hose equipped with a self-closing valve that requires operator pressure to activate the flow of water; or by mobile high pressure/low volume professional services.

(12) Depending on the drought severity, washing of private vehicles may be prohibited, except at commercial wash facilities that recycle their wash water; with water salvaged from indoor use (e.g. water from showers, sinks or lavatories); or by mobile high pressure/low volume professional services.

(13) Depending upon the drought severity, the use of potable water through a meter that is restricted to irrigation uses only may be prohibited. The manager shall have the right to shut off water service to any such meter upon seven days advance notice to the customer.

(14) Outdoor irrigation is not permitted during rain.

(15) Watering to maintain the level of water in swimming pools shall occur only when necessary. A pool cover shall be used to conserve water at all times. Draining of pools or refilling shall be done only for health or safety reasons as determined by the health department or manager. Depending on the severity of the declared drought emergency, the introduction of water into residential swimming pools and spas may be prohibited.

(16) Agricultural customers, commercial nurseries and livestock facilities shall use water only when necessary. The water shortage resolution may invoke appropriate measures to limit or prohibit certain use of potable water for commercial agricultural use.

(17) Irrigation of parks, school ground areas, and road median landscaping will not be permitted more than twice a week and only if necessary. Depending on the severity of the drought emergency, these water uses may be prohibited unless recycled water is used.

(18) Golf course water use shall be limited based upon the severity of the drought. To the extent potable water is used for golf course irrigation, limitation on the irrigation of roughs shall be implemented before limitations on fairway irrigation. Efficient use of recycled water on any golf course shall not be limited.

(19) Depending on the severity of the drought, the city manager may limit or withhold issuance of building permits which require new or expanded water service, except to protect the public's health, safety and welfare, or in cases which meet city council adopted conservation offset requirements.

(D) Each water shortage condition resolution shall set forth a scheduled time for its expiration or further review of the water shortage situation.

SEC. 22-155. PUBLIC NOTIFICATION.

Concurrent with the hearing on the adoption of a water shortage condition resolution and following its adoption, the city council shall implement all reasonable measures to inform city customers of all water use restrictions. The city manager may issue notices through press releases, to print and broadcast media and with customer water bills. The city manager may also provide written and verbal notification to specific impacted industry groups, such as public services, hotels, golf courses, school districts, developers and restaurants.

SEC. 22-156. EXCEPTIONS.

(A) Based on the severity of the declared water shortage conditions, the city council may except any or all of the following uses, in their entirety or in part, from the mandatory conservation measures:

(1) Commercial vehicle washes with water recycling systems, mobile high pressure/low volume professional vehicle wash services and commercial laundries, as consumers commonly use these types of businesses as a water conservation measure.

(2) Water use necessary for public health and safety, for essential health care services or governmental services such as police, fire and other similar public safety or emergency services.

(3) Use of reclaimed or recycled water.

(B) Public agency or other customers who utilize multiple water meters, or who have

unique circumstances, may seek approval from the manager to implement a customized water conservation plan in lieu the mandatory conservation measures set forth in the city council resolution. Such a plan must reduce water consumption to a level consistent with other customers, and shall be effective upon written approval of the manager.

SEC. 22-157. ENFORCEMENT.

The city manager shall take the following steps in response to the failure of any customer to comply with water use restrictions established in any water shortage conditions resolution.

(A) A surcharge shall be imposed on the customer based on the magnitude of the water overuse, and the number of separate occasions the customer has exceeded the designated allotment during the water shortage condition. The charges shall be as follows:

Shortage Stage	Infractions	
	Up to two	Three or more
1	Water use in excess of allotment billed at two times the highest unit rate for that customer class.	Water use in excess of allotment billed at four times the highest unit rate for that customer class.
2	Water use in excess of allotment billed at three times the highest unit rate for that customer class	Water use in excess of allotment billed at five times the highest unit rate for that customer class
3	Water use in excess of allotment billed at four times the highest unit rate for that customer class	Water use in excess of allotment billed at six times the highest unit rate for that customer class
4	Water use in excess of allotment billed at five times the highest unit rate for that customer class	Water use in excess of allotment billed at seven times the highest unit rate for that customer class

(B) In addition to the imposition of the surcharge described in subsection (A) above, for the fourth failure to comply, the manager shall install on the customer service a flow-restricting device of one gallon per minute capacity for services up to one and one-half inch size, and

comparatively sized restricting devices for larger services. The device shall remain installed at the discretion of the manager, or until the water shortage resolution is terminated.

(C) The city shall charge the customer the reasonable costs incurred for installing and for removing the flow-restricting devices and for restoration of normal service. The charge and any surcharges shall be paid before normal service is restored.

(D) In every case, the excess water use penalty is in addition to the regular rate charged for water.

(E) Each failure to comply will be cumulative for the duration of a water shortage condition.

SEC. 22-158. REQUEST FOR ADJUSTMENT.

(A) A customer shall have the right to request relief from or an adjustment to an allowed allocation. The timing and processing of the request shall be as provided in section 22-162.

(B) In determining whether relief shall be granted, the hearing officer shall consider all relevant factors including, but not necessarily limited to, the following:

(1) Any considerations that might warrant modifications to the maximum allowed water use based on the customer's historical use.

(2) Whether the required reduction in water consumption will result in unemployment or economic hardship dissimilar to other similarly situated customers.

(3) Whether additional members have been added to the household.

(4) Whether any additional landscaped property has been added to the property subsequent to the historical base period.

(5) Changes in vacancy factors in multi-family housing.

(6) Increased number of employees in commercial, industrial and governmental offices.

(7) Water uses during new construction.

(8) Adjustments to water use caused by emergency, health or safety issues.

(9) First filling of a swimming pool constructed under permit.

(10) Water use necessary for reasons related to family illness or health.

(11) Increased production requiring increased processed water.

(12) Water use in multi-family housing or mobile home parks where more than one dwelling unit is provided water service by a single water meter.

(13) Unusual or unexplained water usage.

(14) Water usage that is substantially less than adjacent and similar properties as a direct result of historic water conservation practices. In no event, however, may an adjustment be made which would permit a water use higher than that which historically existed.

SEC. 22-159. NOTICE OF VIOLATION.

(A) The city manager shall give the following written notice of violation to the customer committing the violation:

(1) Notice of the applicable water use allotment or restriction, along with the actual measured use and alleged violation, shall be given in writing by regular mail or personal delivery to the customer's address on file with the city.

(a) If personal delivery is used, the notice of violation shall be provided to the customer or to an adult at the premises and by sending a copy through the regular mail to the address at which the customer is normally billed;

(b) If the customer or an adult cannot be located at the premises, then by affixing a copy in a conspicuous place at the premises at which the violation occurred and also by sending a copy through the regular mail to the address at which the customer is normally billed.

(3) The notice shall contain a description of the facts of the violation, a statement of the possible penalties for each violation and a statement informing the customer of his or her right to request an adjustment or an appeal.

SEC. 22-160. REDUCTION IN WATER SUPPLIED.

If any customer fails to comply with any provision of this article, the city manager may reduce the amount of water provided to that customer to the level which that customer would be using if he/she were complying with the provisions of this article. The provisions of this section shall be applied in lieu of, or in addition to, any of the other provisions of this article, at the discretion of the city manager, and may be applied without regard to the status or nature of the customer.

SEC. 22-161. WATER SHORTAGE EMERGENCY; HEALTH AND SAFETY IMPACTS.

Nothing contained in this article shall be construed to: (A) alter the city council's authority to declare and implement a water shortage emergency, as provided in Water Code section 350 *et seq.*; or (B) require the city to curtail or reduce the supply of water to any customer when, in the discretion of the city, substantial damage to equipment could occur or such water is required by that customer to maintain an adequate level of health and safety.

SEC. 22-162. APPEAL.

(A) Each customer shall have the right to appeal the restrictions or allocation granted under the water shortage resolution or any notice of violation by filing a written request for appeal with the city clerk within fifteen days of receipt of the relevant decision or notice.

(B) If the request for appeal is not received by the city clerk within the required period, the customer shall forfeit the right to appeal.

(C) Each customer filing an appeal shall be given a hearing before a hearing officer designated by the city manager. The hearing shall be conducted promptly following the request.

(D) The customer may present any relevant evidence at the hearing. The formal rules of evidence shall not apply. All relevant evidence shall be admissible, unless a sound objection warrants its exclusion.

(E) No relief shall be granted to any customer who, when requested, fails to provide any information necessary for resolution of the customer's appeal. The imposition of any remedy, surcharge, and installation of a flow-restricting device or fine shall be stayed during the processing of the appeal.

(F) A final decision on the appeal shall be provided to the customer in writing within thirty days of receipt of the appeal. The customer shall have exhausted his/her administrative remedies upon the issuance of this final decision.

Part II. SEVERABILITY.

If any section, paragraph, sentence, clause, or phrase of this ordinance or any part thereof, is for any reason held unconstitutional, invalid, or ineffective by any court of competent

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jurisdiction, said decision shall not affect the validity or effectiveness of the remaining portions of this ordinance, or any part thereof.

Part III. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation in the City. Ordinance No. 2729 was read on November 21, 2006, and finally adopted on _____, 2006, to become effective thirty days thereafter.

PASSED AND ADOPTED this ____ day of _____, 2006, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Dr. Thomas E. Holden
Mayor

ATTEST:

Daniel Martinez
City Clerk

APPROVED AS TO FORM:

Gary L. Gillig 11-09-06
Gary L. Gillig
City Attorney

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