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DATE: May 20, 2009  
TO: Honorable Mayor and City Councilmembers  
FROM: Lonnie Thibodeaux, Water Utilities Department  
SUBJECT: **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 37 OF THE OCEANSIDE CITY CODE BY ESTABLISHING A DROUGHT RESPONSE RATE STRUCTURE AND RATES IN THE EVENT OF MANDATORY WATER REDUCTIONS AND ADOPTION OF A RESOLUTION DECLARING A DROUGHT LEVEL 2 CONDITION**

**SYNOPSIS**

Staff and the Utilities Commission recommend that the City Council introduce an ordinance amending Chapter 37 of the Oceanside City Code by establishing a drought response rate structure and rates in the event of mandatory water reductions (Exhibit A) and adopt a resolution declaring a Drought Level 2 condition (Exhibit B).

**BACKGROUND**

On July 7, 2008, the City Council adopted an ordinance establishing drought response conservation measures to be implemented in the event of mandatory water reductions imposed by the Metropolitan Water District and the San Diego County Water Authority. The proposed ordinance will amend Chapter 37 of the Oceanside City Code by establishing a rate structure for each drought level. The Water Utilities Department obtained the services of FCS Group, the consultants who prepared the Integrated Water Utilities Financial Plan, to assist with the rate structure development. The proposed rates are designed to charge water users a fair and equitable cost for service during water shortages. The purpose of drought pricing is to decrease water consumption while still meeting the revenue requirements of the water utility. Water usage in each customer class was analyzed and incorporated into the drought rates.

The City Council first considered the proposed drought rates at a public hearing on February 4, 2009. There were a large number of protests to the proposed drought rates made by a group representing irrigation customers. Staff was directed to develop additional drought rate options and to return to Council at a future date with these alternatives. To ensure that all customer classes were represented in determining the rate options, a focus group was convened to review and make a recommendation on an equitable drought rate structure. The focus group included representatives from single-family, manufactured home, agricultural, and irrigation categories.

The focus group met on March 3 and 5, 2009, and after an in-depth review of the options, the members made a recommendation for a lower irrigation rate increase that maintained equity for all other customer classes. This recommendation was reviewed and approved by the Utilities Commission at its meeting on March 17, 2009. Staff then presented the recommended drought rates to the City Council at a March 31, 2009, workshop. Council directed staff to proceed with the mailing of a public hearing notice with the recommended rates.

Proposition 218 requires that all property owners and utility customers receive 45 days notice of a City Council public hearing to consider an increase in water user rates. On April 3, 2009, a public hearing notice was mailed to all Oceanside property owners and utility customers listing the current and proposed drought rates. The public may submit written protests to the proposed rate increases. Proposition 218 prohibits imposition of the proposed increases if written protests are received from a majority of the property owners and utility customers. If a majority protest is not received, the City Council may approve the rate increases at a public hearing scheduled for May 20, 2009.

A declaration of any drought level must be declared by the San Diego County Water Authority and then adopted by resolution of the City Council. The Water Authority declared a Drought Level 2 on April 23, 2009, with a mandatory water reduction of 8 percent for all member agencies. The Level 2 restrictions would become effective on July 1, 2009, if Council adopts the resolution.

## **ANALYSIS**

The drought response ordinance established four levels of drought response. The proposed drought rates would be implemented when Levels 2 through 4 are declared by the San Diego County Water Authority and a resolution at each level is approved by the City Council. The drought rate structure is based on the City's current inclining block rates. Customers using more water will pay a higher amount. A detailed analysis of each customer category's water consumption during the winter months when water use is lowest was performed to determine discretionary usage patterns by customer class.

The proposed drought rates were developed in accordance with Proposition 218 cost-of-service principles. The rate structure evaluates "essential" (or indoor) and "discretionary" (or outdoor) water usage by each customer class. The rate structure attempts to encourage water demand reductions for discretionary water usage. The level of discretionary usage will vary by customer class. The drought rates, which are in 3 levels depending on the severity of drought, will be put in place to achieve a targeted water consumption reduction for the duration of the drought. The drought rates will be implemented when the San Diego County Water Authority calls for a water reduction during a shortage and after the Oceanside City Council has approved a resolution setting the drought response level. The drought rates are intended to recover lost revenue because of mandatory water curtailment and to pay any penalties incurred if Oceanside does not meet its reduction target. The drought rates consist of a monthly service fee surcharge based on meter size and an increase in commodity charges.

The drought rates published in the public hearing notice were based on a worst-case scenario of expected reductions. The Water Authority declared an 8 percent mandatory water restriction for all member agencies on April 23, 2009. Staff proposes that the City meet this allocation through water conservation and local supply. If the allocation is not met, staff would request that the City Council adopt a resolution to implement drought rates based on the current allocation.

The Water Authority's declaration of a Drought Level 2 condition must be adopted by resolution of the City Council. If Council adopts a Drought Level 2 condition, Oceanside businesses and residents will be subject to the Level 1 and 2 watering restrictions as described in the City Code, Chapter 37, Article V. The restrictions will become effective in July 2009. The public will be notified of the water use restrictions through newspaper advertisements, utility bill inserts, *Oceanside Magazine* articles, television, the City of Oceanside Web site, and enhanced education and outreach. The restrictions are listed below:

Level 1 restrictions:

- Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
- Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
- Irrigate residential and commercial landscape before 10:00 a.m. and after 6:00 p.m. only.
- Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
- Irrigate nursery and commercial grower products before 10:00 a.m. and after 6:00 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.
- Use re-circulated water to operate ornamental fountains.
- Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high-pressure/low-volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.

- Serve and refill water in restaurants and other food service establishments only upon request.
- Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
- Repair all water leaks within five (5) days of notification by the City of Oceanside unless other arrangements are made with the Water Utilities Director.
- Use recycled or non-potable water for construction purposes when available.

Level 2 restrictions:

- Limit residential and commercial landscape irrigation to no more than three (3) assigned days per week on a schedule established by the Water Utilities Director and posted by the City of Oceanside. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the Water Utilities Director and posted by the City of Oceanside. This section shall not apply to commercial growers or nurseries.
- Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10) minutes per water station per assigned day. This provision does not apply to landscape irrigation systems using water-efficient devices, including but not limited to: weather-based controllers, drip/micro/irrigation systems or stream rotor sprinklers.
- Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system, by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.
- Repair all leaks within seventy-two (72) hours of notification by the City of Oceanside unless other arrangements are made with the Water Utilities Director.
- Stop operating ornamental fountains or similar decorative water features unless recycled water is used.

Penalties for violations of the above restrictions include a fine not exceeding \$100 for a first violation and escalating fines with each infraction as described in Sections 1.7 and 1.14 of the City Code. Council may declare an end to any drought level by the adoption of a resolution.

**FISCAL IMPACT**

The proposed drought structure and rates are designed to maintain the fiscal health of the water utility while achieving the declared mandatory water consumption reduction levels. Drought rates will be implemented only in the event of a declared drought and after approval by the City Council. Water Utilities staff is not recommending implementation of drought rates at this time. Revenue losses because of conservation

efforts will be offset by a reduction in the amount of water purchased. If the City is unable to meet its allocation through conservation, the City Council will be requested to direct staff to implement the drought rates.

**COMMISSION OR COMMITTEE REPORT**

The Utilities Commission reviewed and approved staff's recommendation at its meeting on March 17, 2009.

**CITY ATTORNEY'S ANALYSIS**

The ordinance and resolution have been reviewed by the City Attorney and approved as to form. Absent a majority protest pursuant to Proposition 218, water rate and fee increases are authorized by Health and Safety Code Section 5471 upon adoption of an ordinance approved by two-thirds (four councilmembers) of the members of the City Council.

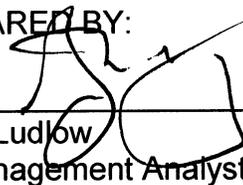
**INSURANCE REQUIREMENTS**

Does not apply.

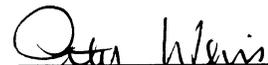
**RECOMMENDATIONS**

Staff and the Utilities Commission recommend that the City Council introduce an ordinance amending Chapter 37 of the Oceanside City Code by establishing a drought response rate structure and rates in the event of mandatory water reductions and adopt a resolution declaring a Drought Level 2 condition.

PREPARED BY:

  
\_\_\_\_\_  
Judith Ludlow  
Sr. Management Analyst

SUBMITTED BY:

  
\_\_\_\_\_  
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Lonnie Thibodeaux, Water Utilities Director

Teri Ferro, Financial Services Director

  
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- Exhibit A: Proposed Ordinance amending Chapter 37 by establishing drought rates
- Exhibit B: Proposed Resolution declaring a Drought Level 2 condition
- Exhibit C: Proposed drought commodity rates
- Exhibit D: Proposed drought service fee surcharges

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING  
OCEANSIDE CITY CODE, CHAPTER 37 BY ESTABLISHING A  
DROUGHT RESPONSE RATE STRUCTURE AND DROUGHT  
RATES IN THE EVENT OF MANDATORY WATER  
REDUCTIONS

WHEREAS, on July 9, 2008, the City Council adopted Ordinance No. 08-OR0439-1 related to establishing drought response conservation measures to be implemented in the event of mandatory potable water reductions; and

WHEREAS, the City Council has determined that a drought rate structure with associated drought rates must be implemented to achieve the water reduction targets established in the City of Oceanside's Drought Response Conservation Program in the event of mandatory water reductions as determined by the Metropolitan Water District of Southern California and the San Diego County Water Authority, which are the City's external water providers.

NOW, THEREFORE, the City Council of the City of Oceanside DOES ORDAIN as follows:

SECTION 1. The second sentence of Section 37.108(b) is amended to read as follows:

**Section 37.108(b) Procedures for determination and notification of drought response level.**

"The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions shall take effect on the tenth (10<sup>th</sup>) day after the Oceanside City Council adopts a resolution declaring the response level, or on such later date as may be set forth in the resolution."

SECTION 2. The second sentence of Section 37.108(c) is amended to read as follows:

**Section 37.108(c) Procedures for determination and notification of drought response level.**

"The mandatory conservation measures applicable to Drought Response Level 4 conditions shall take effect on the tenth (10<sup>th</sup>) day after the Oceanside City Council adopts a

1 resolution declaring the response level, or on such later date as may be set forth in the  
 2 resolution.”

3 SECTION 3. Section 37.109.1 is hereby added to read as follows:

4 **Section 37.109.1 Drought Rates**

5 Effective upon declaration by the San Diego County Water Authority that  
 6 Drought Response Levels Two through Four water reductions are required in order to have  
 7 sufficient supplies to meet anticipated demands and upon the adoption of a resolution at each  
 8 level by the Oceanside City Council, the following Drought Level Two through Four rates may  
 9 be implemented:

<b>Level 2 Drought Alert Rates: up to 20% Mandatory Reduction</b>			
<b>Service Fee Surcharge</b> (per account): 10% higher than the current monthly rate (per meter equivalent)			
<b>Commodity Charge:</b> 1 unit = 748 gallons	Range	Reduction up to 10% - Increase over Current Rate	Reduction up to 20% - Increase over Current Rate
<b>Single Family</b>			
First Tier	0-13 units	0%	0%
Second Tier	14-20 units	25%	60%
Third Tier	21+ units	45%	100%
<b>Multi Family</b>			
First Tier	0-7 units	0%	0%
Second Tier	8-14 units	20%	55%
Third Tier	15+ units	40%	109%
<b>Irrigation</b>	Per unit	20%	40%
<b>Non-Residential/ Commercial Agricultural</b>	Per unit	15%	25%

24 ///  
 25 ///

<b>Level 3 Drought Critical: up to 40% Mandatory Reduction</b>		
<b>Service Fee Surcharge</b> (per account): 25% higher than the current monthly rate (per meter equivalent)		
<b>Commodity Charge:</b> 1 unit = 748 gallons	Range	Increase over Current Rate
<b>Single Family</b>		
First Tier	0-11 units	0%
Second Tier	12-18 units	70%
Third Tier	19+ units	120%
<b>Multi Family</b>		
First Tier	0-7 units	0%
Second Tier	8-12 units	65%
Third Tier	13+ units	115%
<b>Irrigation</b>	Per unit	60%
<b>Non-Residential/ Commercial Agricultural</b>	Per unit	40%

<b>Level 4 Drought Emergency: Above 40% Mandatory Reduction</b>		
<b>Service Fee Surcharge</b> (per account): 30% higher than the current monthly rate (per meter equivalent)		
<b>Commodity Charge:</b> 1 unit = 748 gallons	Range	Increase over Current Rate
<b>Single Family</b>		
First Tier	0-5 units	0%
Second Tier	6-10 units	80%
Third Tier	11+ units	150%
<b>Multi Family</b>		
First Tier	0-4 units	0%
Second Tier	5-8 units	75%
Third Tier	9+ units	145%
<b>Irrigation</b>	Per unit	80%
<b>Non-Residential/ Commercial Agricultural</b>	Per unit	50%

SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)

1 days after its passage in the North County Times, a newspaper of general circulation published  
2 in the City of Oceanside.

3 SECTION 5. Severability.

4 If any section, sentence, clause or phrase of the Ordinance is for any reason held to be  
5 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision  
6 shall not affect the validity of the remaining portions of this Ordinance. The City Council  
7 hereby declares that it would have adopted this Ordinance and each section, sentence, clause or  
8 phrase thereof, irrespective of the fact that any one or more section, subsections, sentences,  
9 clauses or phrases be declared invalid or unconstitutional.

10 INTRODUCED at a regular meeting of the City Council of the City of Oceanside held  
11 on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, and, thereafter,

12 PASSED, AND ADOPTED by the City Council of the City of Oceanside, California  
13 this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the following vote:

14  
15 AYES:  
16 NAYS:  
17 ABSENT:  
18 ABSTAIN:

19 \_\_\_\_\_  
MAYOR, CITY OF OCEANSIDE

20 ATTEST:

APPROVED AS TO FORM:

21 \_\_\_\_\_  
22 CITY CLERK

23   
24 \_\_\_\_\_  
25 CITY ATTORNEY

26 AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING OCEANSIDE CITY  
27 CODE, CHAPTER 37, AMENDING THE DROUGHT RESPONSE CONSERVATION  
28 MEASURES AND ESTABLISHING A DROUGHT RESPONSE RATE STRUCTURE  
AND DROUGHT RATES IN THE EVENT OF MANDATORY WATER  
REDUCTIONS

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE DECLARING A DROUGHT LEVEL 2 AS DESCRIBED IN THE OCEANSIDE CITY CODE SECTION 37.106. CONSERVATION LEVELS**

WHEREAS, on July 9, 2008, the City Council adopted Ordinance No. 08-OR0439-1 related to establishing drought response conservation measures to be implemented in the event of mandatory potable water reductions; and

WHEREAS, the City Council has determined that a drought rate structure with associated drought rates must be implemented to achieve the water reduction targets established in the City of Oceanside's Drought Response Conservation Program in the event of mandatory water reductions as determined by the Metropolitan Water District of Southern California and the San Diego County Water Authority, which are the City's external water providers;

WHEREAS, effective upon declaration by the San Diego County Water Authority that Drought Response Levels 2 through 4 water reductions are required in order to have sufficient supplies to meet anticipated demands, the Oceanside City Council may adopt a resolution at each level to implement the applicable conservation measures identified in the Oceanside City Code;

WHEREAS, A Drought Response Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20 percent is required in order to have sufficient supplies available to meet anticipated demands; and

WHEREAS, on April 23, 2009, the San Diego County Water Authority declared a Level 2 Drought Alert condition.

NOW, THEREFORE, the City Council of the City of Oceanside does declare and resolve as follows:

SECTION 1. The City of Oceanside is in a Level 2 Drought Alert condition;

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1 SECTION 2. The mandatory conservation measures applicable to Drought Response  
2 Level 2 conditions shall take effect on July 1, 2009.

3 SECTION 3. The City Clerk of the City of Oceanside is directed to publish this  
4 resolution once within five (5) days after its adoption in the North County Times, a newspaper  
5 of general circulation published in the City of Oceanside.

6 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,  
7 this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

8  
9 AYES:

10  
11 NAYS:

12  
13 ABSENT:

14  
15 ABSTAIN:

16 \_\_\_\_\_  
MAYOR OF THE CITY OF OCEANSIDE

17  
18  
19 ATTEST:

APPROVED AS TO FORM:

20  
21  
22 \_\_\_\_\_  
CITY CLERK

*Barbara J. Melton, ASST.*  
CITY ATTORNEY

## Proposed City of Oceanside Drought Structure and Rates

The proposed drought rates will not exceed the amounts presented below and will reflect the actual percentage of mandatory water reductions declared by the Metropolitan Water District of Southern California and the San Diego County Water Authority.

Level Two Drought Alert: Up to 20% Mandatory Reduction						Level Three Drought Critical: Up to 40% Mandatory Reduction						Level Four Drought Emergency: Above 40% Mandatory Reduction					
Proposed Drought Water Commodity Charge						Proposed Drought Water Commodity Charge						Proposed Drought Water Commodity Charge					
1 unit = 748 gallons	Range	Pre-Drought 2009 Rate	Percentage Increase	Current Drought Rate		1 unit = 748 gallons	Range	Pre-Drought 2009 Rate	Percentage Increase	Current Drought Rate		1 unit = 748 gallons	Range	Pre-Drought 2009 Rate	Percentage Increase	Current Drought Rate	
<u>Single Family</u> First Tier	0-13 units	\$1.88	0%	\$1.88		<u>Single Family</u> First Tier	0-11 units	\$1.88	0%	\$1.88		<u>Single Family</u> First Tier	0-5 units	\$1.88	0%	\$1.88	
Second Tier	14-20 units	\$2.16	60%	\$3.46		Second Tier	12-18 units	\$2.16	70%	\$3.67		Second Tier	6-10 units	\$2.16	80%	\$3.89	
Third Tier	21+ units	\$2.16	100%	\$4.32		Third Tier	19+ units	\$2.16	120%	\$4.75		Third Tier	11+ units	\$2.16	150%	\$5.40	
<u>Multi Family</u> First Tier	0-7 units	\$1.74	0%	\$1.74		<u>Multi Family</u> First Tier	0-7 units	\$1.74	0%	\$1.74		<u>Multi Family</u> First Tier	0-4 units	\$1.74	0%	\$1.74	
Second Tier	8-14 units	\$2.00	55%	\$3.10		Second Tier	8-12 units	\$2.00	65%	\$3.30		Second Tier	5-8 units	\$2.00	75%	\$3.50	
Third Tier	15+ units	\$2.00	109%	\$4.18		Third Tier	13+ units	\$2.00	115%	\$4.30		Third Tier	9+ units	\$2.00	145%	\$4.90	
<u>Irrigation</u>	Per unit	\$2.05	40%	\$2.87		<u>Irrigation</u>	Per unit	\$2.05	60%	\$3.28		<u>Irrigation</u>	Per unit	\$2.05	80%	\$3.69	
Non-Residential (Including Commercial Agriculture)	Per unit	\$2.05	25%	\$2.56		Non-Residential (Including Commercial Agriculture)	Per unit	\$2.05	40%	\$2.87		Non-Residential (Including Commercial Agriculture)	Per unit	\$2.05	50%	\$3.08	
Service Fee Surcharge (per account): 10% higher than the current monthly water service charge (per meter equivalent)						Service Fee Surcharge (per account): 25% higher than the current monthly water service charge (per meter equivalent)						Service Fee Surcharge (per account): 30% higher than the current monthly water service charge (per meter equivalent)					

## Explanation of City of Oceanside Drought Response Levels

Drought Response Levels	Use Restrictions	Conservation Target
1 – Drought Watch	Voluntary	
2 – Drought Alert	Mandatory	Up to 20%
3 – Drought Critical	Mandatory	Up to 40%
4 – Drought Emergency	Mandatory	Above 40%

### City of Oceanside Drought Monthly Surcharge

<b>Drought Level 2</b>			
Meter Size	Current Monthly Service Charge	Drought Surcharge - 10% per meter equivalent	Total Drought Monthly Service Charge
5/8" & 3/4"	\$12.97	\$1.29	\$14.26
1"	\$28.59	\$2.85	\$31.44
1 1/2"	\$54.63	\$5.46	\$60.09
2"	\$85.89	\$8.58	\$94.47
3"	\$158.81	\$15.88	\$174.69
4"	\$262.98	\$26.29	\$289.27
6"	\$523.42	\$52.34	\$575.76
8"	\$835.93	\$83.59	\$919.52
10"	\$1,200.54	\$120.05	\$1,320.59

<b>Drought Level 3</b>			
Meter Size	Current Monthly Service Charge	Drought Surcharge - 25% per meter equivalent	Total Drought Monthly Service Charge
5/8" & 3/4"	\$12.97	\$3.24	\$16.21
1"	\$28.59	\$7.14	\$35.73
1 1/2"	\$54.63	\$13.65	\$68.28
2"	\$85.89	\$21.47	\$107.36
3"	\$158.81	\$39.70	\$198.51
4"	\$262.98	\$65.74	\$328.72
6"	\$523.42	\$130.85	\$654.27
8"	\$835.93	\$208.98	\$1,044.91
10"	\$1,200.54	\$300.13	\$1,500.67

<b>Drought Level 4</b>			
Meter Size	Current Monthly Service Charge	Drought Surcharge - 30% per meter equivalent	Total Drought Monthly Service Charge
5/8" & 3/4"	\$12.97	\$3.89	\$16.86
1"	\$28.59	\$8.57	\$37.16
1 1/2"	\$54.63	\$16.38	\$71.01
2"	\$85.89	\$25.76	\$111.65
3"	\$158.81	\$47.64	\$206.45
4"	\$262.98	\$78.89	\$341.87
6"	\$523.42	\$157.02	\$680.44
8"	\$835.93	\$250.77	\$1,086.70
10"	\$1,200.54	\$360.16	\$1,560.70