



DATE: May 20, 2015

TO: Honorable Mayor and City Councilmembers

FROM: Jason Dafforn, Interim Water Utilities Director

SUBJECT: **ADOPTION OF AN ORDINANCE TO MAKE URGENCY CHANGES TO CHAPTER 37 ARTICLE V OF OCEANSIDE CITY CODE RELATING TO WATER CONSERVATION**

SYNOPSIS

Staff recommends that the City Council introduce and adopt an urgency ordinance amending Section 37, Article V of the Oceanside City Code, revising and updating the Water Conservation Program and the Drought Response Conservation Measures.

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.

California is experiencing unprecedented drought conditions, with 2014 projected to become the driest year on record. On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions.

On August 6, 2014, the City Council adopted a resolution declaring Drought Level 2 conditions.

Governor Brown, in an unprecedented action through the State Water Resources Control Board, required water suppliers to activate their drought response plans at a level requiring mandatory water use restrictions due to California's continuing dry conditions and the potential for a fifth consecutive year of drought. The State Water Resources Control Board adopted expanded emergency regulations to safeguard the state's remaining water supplies.

On April 1, 2015, the Governor issued an Executive Order that, in part, directs the State Board to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February, 2016.

On May 5, 2015, the State Water Resources Control Board adopted an order requiring mandatory cutbacks by Water Suppliers and local agencies. San Diego County agencies face cutbacks ranging from 12% to 36%. Due to strong conservation efforts, Oceanside will need to reduce water use by 20% over 2013 levels. These cutbacks will be in effect from June 1, 2015 through at least February 2016. To facilitate these changes, immediate action is necessary, and therefore, staff is recommending the ordinance changes outlined below be adopted as an urgency measure.

ANALYSIS

The changes being requested to Chapter 37, Article V, will enable the City to meet the mandates of the State Water Resources Control Board, and help mitigate the possibility of the City receiving large fines for not being in compliance with those mandates.

The ordinance changes proposed primarily affect Drought Conditions Level 1 (Drought Watch) and Level 2 (Drought Alert) include:

- Section 37.101.1(a) (page 2 of ordinance) Modify language to exempt the use of recycled water.
- Section 37.101.1(e) (page 3) Eliminate references to Metropolitan Interim Agricultural Water Program.
- Section 37.105(k) (page 3) Clarify the definition of “grower” and require certification of growers for agricultural use.
- Section 37.106(b)(1) (page 3) Make Level 1 Drought Watch the standard operating condition for the City of Oceanside.
- Section 37.106(c)2.a. (page 5) Change assigned days for outside irrigation from 3 days per week to 2 days per week.
- Section 37.106(c)2.e. (page 5) Change the time limit for repairing leaks from 72 hours to immediately upon notification.
- Section 37.106(c)2.f (page 5) Change reference from “recycled” to “re-circulated” water with respect to the operation of ornamental fountains.
- Section 37.106(c)2.g (page 5) Add language regarding no watering during or 48 hours after measurable precipitation.
- Section 37.106(c)2.h (page 5) Stop using potable water for irrigation of landscape of new homes and buildings in a manner inconsistent with the building code and other regulations.

There are no substantive proposed changes to other parts of the Water Conservation Ordinance beyond Drought Level 2 modifications, and no proposed changes to Drought Levels 3 and 4 at this time.

FISCAL IMPACT

Failure to implement a water shortage contingency plan at a level that triggers mandatory restrictions on outdoor water use could result in fines up to \$10,000 per day per violation to the City.

COMMISSION OR COMMITTEE REPORT

The Utilities Commission was updated on this action at its regularly scheduled meeting on May 11, 2015.

CITY ATTORNEY'S ANALYSIS

The Ordinance has been reviewed by the City Attorney and approved as to form. Adoption of an urgency ordinance requires 4/5ths approval by the City Council.

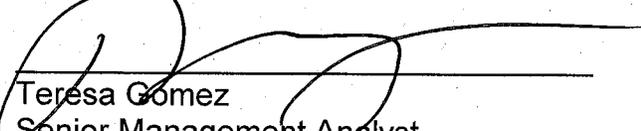
INSURANCE REQUIREMENTS

Does not apply.

RECOMMENDATIONS

Staff recommends that the City Council introduce and adopt an urgency ordinance amending Section 37, Article V of the Oceanside City Code, revising and updating the Water Conservation Program and the Drought Response Conservation Measures.

PREPARED BY:



Teresa Gomez
Senior Management Analyst

SUBMITTED BY:



Michelle Skaggs Lawrence
Interim City Manager

REVIEWED BY:

Peter Weiss, Assistant City Manager
Jason Dafforn, Interim Water Utilities Director

JRS

Exhibit A: Ordinance

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

2 SECTION 1. Section 37.101, subdivision (a) of the Oceanside City Code shall be amended to
3 read as follows:

4 **Sec. 37.101 Declaration of Necessity and Intent**

5 (a) This article establishes water management requirements necessary to conserve water,
6 enable effective water supply planning, assure reasonable and beneficial use of water,
7 prevent waste of water, prevent unreasonable use of water, prevent unreasonable method
8 of use of water within the City of Oceanside in order to assure adequate supplies of water
9 to meet the needs of the public, and further the public health, safety, and welfare,
10 recognizing that water is a scarce natural resource that requires careful management not
11 only in times of drought, but at all times

12 SECTION 2. Sec.37.101.1, subdivisions (a) through (d) shall be amended to read as follows:

13 **"Sec. 37.101.1 Application**

- 14 (a) The provisions of this article apply to any person in the use of any water provided by the
15 City of Oceanside, except that the provisions of this ordinance do not apply to use of
16 recycled water.
- 17 (b) This article is intended solely to further the conservation of water. It is not intended to
18 implement any provision of Federal, State, or local statutes ordinances, or regulations
19 relating to protection of water quality or control of drainage or runoff. Refer to chapter 40
20 of the Oceanside City Code or the Regional Water Quality Control Board for information
21 on any urban runoff/stormwater ordinances or urban runoff/stormwater management
22 plans.
- 23 (c) Nothing in this article is intended to affect or limit the ability of the City of Oceanside to
24 declare and respond to an emergency, including an emergency that affects the ability of
25 the City of Oceanside to supply water.
- 26 (d) Nothing in this article shall apply to use of water that is subject to a special supply
27 program, such as the Water Authority Special Agricultural Water Rate program. Violations
28 of the conditions of the special supply program is subject to the penalties established
under the applicable program. A person using water subject to a special supply program

1 and other water provided by the City of Oceanside is subject to this ordinance in the use
2 of other water.

3 SECTION 3. Sec.37.103, subdivision (c) shall be amended to read as follows:

4 **"Sec. 37.103**

5 "(c) Water users shall not let water leave the property by draining onto adjacent properties or
6 public or private roadways for any reason. Spraying hard surfaces during irrigation activities is
7 prohibited."

8 SECTION 4. Sec.37.105, subdivision (k) shall be amended by adding the following:

9 **"Sec. 37.105 Definitions**

10 (k) "Grower" refers to those engaged in the growing or raising in conformity with recognized
11 practices of husbandry, for the purpose of commerce trade or industry, or for use by public
12 educational or correctional institutions, of agricultural, horticultural or floricultural products,
13 and produced (1) for human consumption or for the market, or (2) for the feeding of fowl or
14 livestock produced for human consumption or for the market. *Grower* does not refer to
15 customers who purchase water subject to the Water Authority Special Agricultural Rate
16 program. All growers classified for agricultural use must be certified to meet the definition of
17 Government Code section 51201, subdivision (b) and comply with the San Diego regional
18 Agricultural Water Management Plan.

19 SECTION 5. Sec. 37.106, subdivisions (b) and (c) shall be amended to read as follows:

20 **"Sec. 37.106. Conservation stages**

21 (b) Drought Response Level 1 – Drought Watch Condition

22 1. A Drought Response Level 1 condition is also referred to as a "Drought Watch"
23 condition. A Level 1 condition applies when the Water Authority notifies its member agencies that
24 due to drought or other supply reductions, there is a reasonable probability there will be supply
25 shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure
26 that sufficient supplies will be available to meet anticipated demands. The City of Oceanside never
27 operates below a Level 1 condition in order to encourage water use efficiency and awareness.

28 2. During a Level 1 Drought Watch condition, the City of Oceanside actively promotes water
efficiency through public education and outreach efforts to emphasize increased public awareness of
the need to implement the following water conservation practices:

1 a. Stop washing down paved surfaces, including but not limited to sidewalks, driveways,
2 parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation
3 hazards.

4 b. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head
5 drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent
6 property, non-irrigated areas, hardscapes, roadways or structures.

7 c. Irrigate residential and commercial landscape before 10:00 a.m. and after 6:00 p.m. only.

8 d. Stop the application of potable water to driveways and sidewalks.

9 e. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water
10 landscaped areas, including trees and shrubs located on residential and commercial properties that
11 are not irrigated by a landscape irrigation system.

12 f. Irrigate nursery and commercial grower's products before 10:00 a.m. and after 6:00 p.m.
13 only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off
14 nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery
15 propagation beds is permitted at any time. Watering of livestock is permitted at any time. Use re-
16 circulated water to operate ornamental fountains.

17 g. Use re-circulated water to operate ornamental fountains.

18 h. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle,
19 mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims)
20 water on-site. Avoid washing during hot conditions when additional water is required due to
21 evaporation.

22 i. Serve and refill water in restaurants and other food service establishments only upon
23 request.

24 j. Offer guests in hotels, motels, and other commercial lodging establishments the option of
25 not laundering towels and linens daily.

26 k. Repair all water leaks within five (5) days of notification by the City of Oceanside unless
27 other arrangements are made with the water utilities director.

28 l. Use recycled or non-potable water for construction purposes when available

1 3. During a Drought Response Level 2 condition or higher, all persons shall be required to
2 implement the conservation practices established in a Drought Response Level 1 condition.

3 (c) Drought Response Level 2 – Drought Alert Condition

4 1. A Drought Response Level 2 condition is also referred to as a “Drought Alert” condition. A
5 level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks
6 caused by drought or other reduction in supplies, a consumer demand reduction of up to twenty (20)
7 percent is required in order to have sufficient supplies available to meet anticipated demands. The
8 Oceanside City Council shall adopt a resolution declaring the existence of a Drought Response Level 2
9 condition and implementing the mandatory Level 2 conservation measures identified in this
10 ordinance.

11 2. All persons using City of Oceanside water shall comply with Level 1 Drought Watch water
12 conservation practices during a Level 2 Drought Alert, and shall also comply with the following
13 additional conservation measures:

14 a. Limit residential and commercial landscape irrigation to no more than two (2) assigned days
15 per week on a schedule established by the Water Utilities Director and posted by the City of
16 Oceanside. This section shall not apply to commercial growers or nurseries unless under direct order
17 by the Governor or by a State agency acting on his behalf.

18 b. Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10)
19 minutes per water station per assigned day. This provision does not apply to landscape irrigation
20 systems using water efficient devices, including but not limited to: weather-based controllers,
21 drip/micro/irrigation systems or stream rotor sprinklers.

22 c. Water landscaped areas, including trees and shrubs located on residential and
23 commercial properties, and not irrigated by a landscape irrigation system governed by subsection
24 37.106(c)2.a., on the same schedule set forth in subsection 37.106(c)2.a. by using a bucket, hand-
25 held hose with positive shut-off nozzle, or low-volume non-spray irrigation

26 d. Stop irrigation with potable water of ornamental turf on public street medians when under
27 direct order by the Governor, or by a State agency acting on his behalf.
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1 e. Repair all leaks immediately upon notification by the City of Oceanside unless other
2 arrangements are made with the Water Utilities Director.

3 f. Stop operating ornamental fountains or similar decorative water features unless
4 recirculated water is used.

5 g. Stop all watering during and forty-eight (48) hours after measureable precipitation.

6 h. Stop irrigation with potable water of landscapes outside of newly constructed homes and
7 buildings in a manner inconsistent with regulations or other requirements established by the
8 California Building Standards Commission and the Department of Housing and Community
9 Development when under direct order by the Governor or by a State agency acting on his behalf.

10 SECTION 6. Severability.

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

17 Section 7. Effective Date.

18 This ordinance shall be effective immediately upon its adoption by 4/5ths vote of the City
19 Council in accordance with Government Code section 36937.

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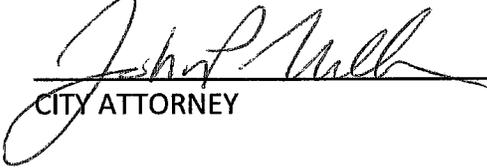
INTRODUCED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside
held on the _____ day of _____, 2015,
by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

MAYOR, CITY OF OCEANSIDE

ATTEST:

CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

AN URGENCY ORDINANCE OF THE CITY OF OCEANSIDE AMENDING OCEANSIDE CITY CODE,
CHAPTER 37, REVISING AND UPDATING THE WATER CONSERVATION PROGRAM AND THE
DROUGHT RESPONSE CONSERVATION MEASURES