



## AGENDA REPORT

**Meeting Date:** July 15, 2008  
**Item Number:** D-2  
**To:** Honorable Mayor & City Council  
**From:** Shana Epstein, Environmental Utilities Manager   
**Subject:** A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS DECLARING AND IMPLEMENTING WATER CONSERVATION "STAGE A"

**Attachments:**

1. Resolution
2. Notice of Public Hearing
3. Existing Municipal Code

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### RECOMMENDATION

Staff recommends that City Council declare a Stage A Emergency Water Conservation level to encourage the community to voluntarily conserve water by following certain water conservation measures as defined in the City's municipal code.

### INTRODUCTION

In light of the Governor's declaration of a drought in the State of California and the Metropolitan Water District's recent declaration of a Water Supply Alert, staff recommends that the City continue to encourage the community to conserve and begin to implement water conservation measures. Staff will educate the community individually as well as promote an advertisement campaign that communicates different water conservation tips.

### DISCUSSION

Stage A in the Emergency Water Conservation Ordinance is a voluntary declaration to request 5% conservation and encourage behavioral changes in day to day life to achieve this level of conservation. To arrive at this recommendation, staff considered the following factors:

- Lack of financial impacts to the City from Metropolitan Water District, the City's water wholesaler

- Potential water shortage allocations in FY 09/10 that would have financial impacts to the City
- Avoidance of crisis fatigue
- Uphold credibility of calling for mandatory water conservation
- Existing water rates already encourage conservation with a substantial rate increase for Tier 4 consumption.

Staff recommends that the conservation measures to be communicated to the residents, visitors and businesses of Beverly Hills include:

- Restaurants shall serve water upon request only;
- All public restrooms in the city and private bathrooms in hotels shall notify patrons and employees of water conservation goals;
- Plumbing and irrigation leaks shall be repaired as soon as practicable. The city may issue notices to repair visible leaks;
- Reduce irrigation to between dusk and dawn or 8pm to 8am
- Do not wash-down paved areas except to alleviate immediate fire or sanitation hazards
- Reduce operation of non-recycling fountains,

As a leader, the City's own facilities will adhere to these measures that are applicable.

The notice of this resolution declaring Stage A was posted and published ten days prior to the hearing. In addition, at the City Council meeting staff will present the advertising campaign featuring the tagline "Think Outside the Sink."

#### **FISCAL IMPACT**

These actions are being taken to encourage greater conservation. The staff members who will be assigned to educate are already employed by the City and portions of their position are already paid for out of the Water Enterprise Fund.

  
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Scott Miller  
Finance Approval

  
\_\_\_\_\_  
David Gustavson  
Approved By

# **Attachment 1**

## Resolution

RESOLUTION NO. 08-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY  
HILLS DECLARING AND IMPLEMENTING WATER  
CONSERVATION STAGE "A"

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. Recently, the Governor has declared a drought in the State of California and the Metropolitan Water District has declared a Water Supply Alert. In light of this water emergency and for the reasons set forth in the agenda report presented to the City Council on July 15, 2008, the City Manager has determined that a five percent (5%) reduction in potable water use is required and that water conservation Stage "A" be declared and implemented by the City Council. Beverly Hills Municipal Code Section 9-4-301 provides that the City Manager or his designee is authorized to implement certain water conservation measures after holding a public hearing before the City Council.

Section 2. On July 15, 2008, the City Council held a duly noticed public hearing to consider the recommendations of the Environmental Utilities Manager to implement water conservation Stage "A." After receiving oral and written testimony, including the agenda report, the City Council hereby determines as follows:

(a) Water Conservation Stage "A" is hereby declared throughout the City of Beverly Hills and the City Council hereby directs that the Environmental Utilities Manager implement Water Conservation Stage "A" as set forth herein.

(b) The Environmental Utilities Manager and/or appropriate City Staff shall hereby communicate to residents, visitors and businesses of the following voluntary water conservation measures for implementation: (i) restaurants shall serve water upon request only; (ii) all public restrooms in the city and private bathrooms in hotels shall notify patrons and employees

of water conservation goals; (iii) plumbing and irrigation leaks shall be repaired as soon as possible; the city may issue notices to repair visible leaks; (iv) irrigation shall be reduced between dusk and dawn or 8pm to 8am; (v) no wash-down of paved areas shall occur except to alleviate immediate fire or sanitation hazards; (vi) operation of non-recycling fountains shall be reduced; and (vii) use of reclaimed water for construction purposes shall be encouraged. In addition to these elements, the City Council hereby authorizes the City Manager or his designee to implement other voluntary water conservation elements as determined by the City Manager as necessary in order to encourage behavioral changes in day to day life to achieve a five percent (5%) reduction in potable water.

Section 3. In accordance with Beverly Hills Municipal Code Section 9-4-303.B, the City Council hereby directs the City Clerk to publish this Resolution at least once in a newspaper of general circulation within the city and to post this Resolution in at least three (3) public places and continue to post this Resolution until such time as the restrictions set forth herein are repealed by resolution of the City Council.

Section 4. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

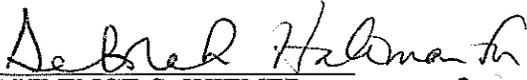
Adopted:

\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE (SEAL)  
City Clerk

APPROVED AS TO FORM:

  
LAURENCE S. WIENER  
City Attorney

(AD)

APPROVED AS TO CONTENT:

  
DAVID D. GUSTAVSON  
Director of Public Works and Transportation

## **Attachment 2**

### Notice of Public Hearing



*City Clerk's Office*

## NOTICE OF PUBLIC HEARING

The City Council of the City of Beverly Hills at its regular meeting to be held on *Tuesday, July 15, 2008, at 7:00 p.m.*, in the Council Chambers of the City Hall, 455 N. Rexford Drive, Beverly Hills, CA 90210, will hold a public hearing to consider:

### ***A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS DECLARING AND IMPLEMENTING WATER CONSERVATION "STAGE A"***

Pursuant to the City's Emergency Water Conservation Plan Ordinance set forth in Section 9-4-301 et. seq. of the City's Municipal Code, the City Council may declare and implement water conservation stages upon recommendation by City staff. This resolution will declare and implement Stage A water conservation requirements as set forth in Section 9-4-304 of the Beverly Hills Municipal Code.

All interested persons are invited to attend and speak on this matter. Written comments are also invited and should be addressed to the City Council, c/o City Clerk, 455 N. Rexford Drive, Room 190, Beverly Hills, CA 90210; and should be received prior to the City Council Meeting.

Please remember, if you challenge the City Council's action in court, you may be limited to raising only those issues you or someone else raised at the hearing before the City Council or in written correspondence delivered to the City, either at or prior to the hearing.

A handwritten signature in black ink, appearing to read "Byron Pope".

BYRON POPE, CMC  
City Clerk

Published: July 4, 2008

# **Attachment 3**

## Existing Municipal Code

## **Existing Municipal Code as Related to Water Conservation**

### **9-4-303: DECLARATION OF WATER CONSERVATION STAGES:**

A. Water conservation stages shall be determined by the amount of water available or the potential for water interruption. The city manager shall monitor the supply and demand for water by customers. When the city manager finds that the guidelines for initiation of any stage, as set forth in this article, have been satisfied, he or she shall recommend to the city council that a resolution to declare the appropriate water conservation stage be adopted.

B. The resolution by the city council implementing or terminating conservation stages shall be published at least once in a newspaper of general circulation within the city and posted in at least three (3) public places and shall continue to be posted until such time as the restrictions of each stage are repealed by resolution of the city council.

C. Except as otherwise may be provided by this article or a resolution adopted by the city council, any prohibitions on the use of water shall become effective immediately upon publication in a newspaper of general circulation within the city. Except as otherwise may be provided by a resolution adopted by the city council, any provisions requiring a percentage reduction in the use of water shall become effective at the first full billing period commencing on or after the date of such publication. (Ord. 92-O-2129, eff. 4-2-1992)

### **9-4-304: REQUIREMENTS FOR WATER CONSERVATION STAGES:**

#### **A. Stage A Requirements:**

1. A stage A shortage shall be declared when the city manager determines that a five percent (5%) reduction in potable water use is required.
2. Stage A compliance shall consist of voluntary implementation of water conservation elements including, without limitation, reduced irrigation, no washdown of paved areas except to alleviate immediate fire or sanitation hazards, reduced operation of nonrecycling fountains, notification of hotel and restaurant patrons of water conservation goals, serving of water at restaurants only upon request and use of reclaimed water for construction purposes.

#### **B. Stage B Requirements:**

1. A stage B shortage shall be declared when the city manager determines that a ten percent (10%) reduction in potable water use is required.

2. Stage B compliance elements shall include the following mandatory elements:

- a. Restaurants shall serve water upon request only;
- b. All public restrooms in the city and private bathrooms in hotels shall notify patrons and employees of water conservation goals;
- c. Plumbing and irrigation leaks shall be repaired as soon as practicable. The city may issue notices to repair visible leaks;
- d. Water usage shall be reduced to ninety percent (90%) of the baseline year amount as determined by the city manager.

3. A water penalty surcharge of up to two (2) times the basic water rate shall be charged for water usage in excess of ninety percent (90%) of the baseline year amount as determined by the city manager.

4. Violation by any person of the stage B mandatory requirements shall constitute an infraction and, upon conviction, shall be punished by a fine not to exceed one hundred dollars (\$100.00). The violation of each element, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly.

#### C. Stage C Requirements:

1. A stage C shortage shall be declared when the city manager determines that a twenty percent (20%) reduction in potable water use is required.

2. Stage C compliance elements shall include the following mandatory elements:

- a. Restaurants shall serve water upon request only;
- b. All public restrooms in the city and private bathrooms in hotels shall notify patrons and employees of water conservation goals;
- c. Plumbing and irrigation leaks shall be repaired as soon as practicable. The city may issue notices to repair visible leaks;
- d. Water usage shall be reduced to eighty percent (80%) of the baseline year amount as determined by the city manager.

3. A water penalty surcharge of up to three (3) times the basic water rate shall be charged for water usage in excess of eighty percent (80%) and not more than one hundred percent (100%) of the baseline year amount as determined by the city manager. A water penalty surcharge of up to ten (10) times the basic water rate shall be charged for water usage in excess of one hundred percent (100%) of the baseline year amount as determined by the city manager.

4. Violation by any person of the stage C mandatory requirements shall constitute a misdemeanor and, upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00). Water supply through irrigation water services may be terminated for continued excessive use. The violation of each element, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly.

D. Stage D Requirements:

1. A stage D shortage shall be declared when the city manager determines that a thirty percent (30%) or higher reduction in potable water use is required.

2. Stage D compliance elements shall include the following mandatory elements:

- a. Restaurants shall serve water upon request only;
- b. All public restrooms in the city and private bathrooms in hotels shall notify patrons and employees of water conservation goals;
- c. Plumbing and irrigation leaks shall be repaired as soon as practicable. The city may issue notices to repair visible leaks;
- d. Landscape irrigation shall be restricted to selected days and times as determined by the city manager, unless such irrigation uses reclaimed wastewater;
- e. Refilling of swimming pools, spas or ponds shall be prohibited unless required for health reasons;
- f. Operation of water fountains shall be prohibited;
- g. Exterior washdown of buildings and washdown of vehicles shall be prohibited, unless:
  - (1) The washing is done on the immediate premises of a commercial car wash or commercial service station or with reclaimed wastewater; or
  - (2) The health, safety and welfare of the public is contingent upon frequent vehicle cleaning, such as the cleaning of garbage trucks and vehicles to transport food and perishables;
- h. Water usage from fire hydrants shall be limited to fire fighting, related activities or other activities necessary to maintain the public health, safety and welfare;
- i. Water usage shall be reduced to seventy percent (70%) of the baseline year amount as determined by the city manager.

3. A water penalty surcharge of up to four (4) times the basic water rate shall be charged for water usage in excess of seventy percent (70%) but not more than one hundred percent (100%) of the baseline year amount as determined by the city manager. A water penalty surcharge of up to ten (10) times the basic water rate shall be charged for water usage in excess

of one hundred percent (100%) of the baseline year amount as determined by the city manager.

4. Violation by any person of the stage D mandatory requirements shall constitute a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00). Continued excessive use may result in termination of water supply through irrigation water services and/or restriction of water supply through domestic meters. The violation of each element, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly.

#### E. Stage E Requirements:

1. A stage E shortage shall be declared when the city manager determines that a catastrophic interruption of potable water supply has occurred or is foreseen.

2. The city manager shall have emergency water allocation authority in the case of a stage E declaration. This authority shall include the authority to interrupt service to any property or city service zone in order to provide the maximum water supply for human health and safety needs.

3. In allocating water, the city manager shall give first priority to health and safety needs of water utility customers. Subsequent water uses are prioritized to provide water supply first to maintain and expand commerce within the city, then to enhance the aesthetics of the environment, and then to facilitate construction activities.

4. Violation by any person of the stage E emergency water conservation regulations shall constitute a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) and six (6) months in jail. Continued excessive use may result in termination of water supply through irrigation water services and/or restriction of water supply through domestic meters. The violation of each element, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly. (Ord. 92-O-2139, eff. 4-2-1992)

#### **9-4-305: NOTICE OF VIOLATION:**

A. The city shall give notice of violation to the person committing a violation of this article as follows:

1. Notice of violation of any water usage percentage reduction provisions shall be given in writing by regular mail.

2. Notice of violation of any other mandatory requirement listed in section 9-4-304 of this article shall be given in writing in the following manner:

- a. By giving the notice to the customer personally; or
- b. If the customer is absent from or unavailable at the premises at which the violation occurred, by leaving a copy with some person of suitable age and discretion at the premises and sending a copy through the regular mail to the address at which the customer is normally billed; or
- c. If a person of suitable age or discretion cannot be found, then by affixing a copy in a conspicuous place at the premises at which the violation occurred and also sending a copy through the regular mail to the address at which the customer is normally billed.

B. The notice shall contain a brief 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 a hearing on the merits of the violation pursuant to section 9-4-306 of this article. (Ord. 92-O-2139, eff. 4-2-1992)

**9-4-306: HEARINGS:**

- A. Any person receiving notice of a violation of section 9-4-304 of this article shall have a right to a hearing by the city council if requested within fifteen (15) days of mailing or other delivery of the notice of violation.
- B. The timely written request for a hearing shall not stay the imposition of a surcharge unless within the time period to request a hearing, the amount of any unpaid surcharge due is deposited with the city treasurer. If it is determined that the surcharge was wrongly assessed, the city shall refund any money deposited.
- C. The decision of the city council shall be final.
- D. The city council may delegate its duties and responsibilities under this section to the city manager as it considers appropriate. (Ord. 92-O-2139, eff. 4-2-1992)

**9-4-307: ADDITIONAL WATER CONSERVATION MEASURES:**

After holding a public hearing before the city council, the city manager may order implementation of water conservation measures including or in addition to those set forth in section 9-4-304 of this article, in order to encourage proper potable

water use or to meet water conservation goals, regardless of supply. (Ord. 92-O-2139, eff. 4-2-1992)

**9-4-308: EXCEPTIONS:**

A. Nothing in this article shall be construed to require the city to curtail the supply of water to any customer when such water is required by that customer to maintain an adequate level of public health and safety.

B. The city manager may grant a reduction or waiver of the water penalty surcharge for water usage in excess of the required percentage of the baseline year amount if he or she finds one of the following exists:

1. Unique characteristics concerning the user's or customer's property makes it physically infeasible to reduce water consumption from the base year amount; or
2. The user has special needs related to a physical disability making it infeasible to reduce water consumption from the base year amount. (Ord. 92-O-2139, eff. 4-2-1992)