



## AGENDA REPORT

**Meeting Date:** May 13, 2009

**Item Number:** D-4

**To:** Honorable Mayor & City Council

**From:** Shana Epstein, Environmental Utilities Manager  
Christian Di Renzo, Sr. Management Analyst

**Subject:** RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS  
DECLARING AND IMPLEMENTING WATER CONSERVATION  
STAGE "B".

**Attachments:**

1. Resolution
2. Notice of Public Hearing – 2008
3. Notice of Public Hearing – 2009
4. Watering Schedule Map
5. Draft Customer Notice Letter

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### RECOMMENDATION

Staff recommends that the City Council declare a Stage B Emergency Water Conservation level calling for a 10% reduction in potable water use and approve the adoption of an appeals procedure for water consumption surcharges.

### INTRODUCTION

The water supply for all of Southern California is increasingly strained. A wet February month notwithstanding, the state is already deep into a third year of drought. Snowpack levels are still well below average, court imposed restrictions on water deliveries from the State Water Project remain in effect, and key reservoirs are near record-low levels. Annual rainfall in Los Angeles between July 1, 2006 and July 1, 2007, was only 3.2 inches -- the lowest on record. The City normally receives about 15 inches per year.

In June 2007, the Metropolitan Water District (which imports water from Northern California and the Colorado River and is a water wholesaler that serves 26 cities and water agencies) began using water in storage for future years to meet current needs. In 2008, MWD announced its reservoir storage would be depleted by 2011 if water demand in Southern California was not curtailed. On April 1, 2009, at a special member managers meeting, MWD staff announced the recommendation they were prepared to make to the MWD Board on April 14, 2009. That recommendation was the declaration of a regional shortage level 2 (10%).

As was expected, MWD voted to adopt staff's recommendation and reduce supplies to its member agencies for the first time since 1991, effective July 1, 2009. The allocations invoked will require the City of Beverly Hills, as a water retailer, to reduce total water consumption by as much as 10% (Stage B declaration). This reduction will be based on the average amount of water purchased by the City of Beverly Hills for all of its customers for the three years from 2004 through 2006. Mr. Robert Wunderlich, the City's representative on the MWD Board, gave a brief overview of the allocation methodology at the April 7, 2009 Council Study Session.

**DISCUSSION**

On July 15, 2008, the City declared Stage A of the Water Conservation Ordinance, calling for voluntary conservation measures in order to reduce consumption by 5%. This declaration was prompted by mounting concerns over the availability of future water supplies and ongoing discussions with MWD. A more restrictive stage was not declared since it was felt to be premature, thus MWD's reluctance to impose mandatory restrictions on its member agencies at that time.

Stage B of the Emergency Water Conservation Ordinance calls for a citywide mandatory reduction in potable water use of ten percent (10%). 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 within seven days of notification to the property owner by the City;
- Water usage shall be reduced to ninety percent (90%) of the baseline year amount as determined by the City Manager. Baseline will be consistent with the baseline years utilized by MWD;
- Stage A imposed a "no watering" restriction between the hours of 8am to 8pm daily. Stage B will further restrict watering accordingly: North of Santa Monica – watering allowed on Monday, Wednesday, and Friday; South of Santa Monica – watering allowed on Tuesday, Thursday, and Saturday. No watering will be allowed on Sunday.

**Cost of Water**

Type of Water	Amount of Water	Cost of Water (\$)	
8oz bottles in 8-pack packaging	5 gallons	37.34	
Delivered bottled water	5 gallons	6.95	
Bottled water at the store	5 gallons	5.22	
City's tap water	5 gallons	0.024	Current rate
City's tap water	5 gallons	0.026	FY 09/10 rate

**PENALTIES**

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.

	Stage A	Stage B	Stage C	Stage D
Baseline (% of Average Usage)	100%	90%	80%	70%
<b>Penalty</b>				
Baseline to 100% (factor times rates)	1 X	2 X	3 X	4 X
Greater than 100% (factor times rates)	1 X	2 X	10 X	10 X

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). The violation of each element, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly.

Below is a representation of the City's current and future water rates.

		2008/09 <u>CURRENT</u> RATES		2009/10 <u>PROPOSED</u> RATES	
		(Units \$)		<i>(Effective 7/1/09)</i>	
Single Family Residences & Duplexes *Monthly Water Usage - units of 100 cu ft (per 100 cu ft)	Multi-Family Residential *Tier acts as a multiplier by # of units.	Inside City	Outside City	Inside City	Outside City
Tier 1 - from 1 and up to 10	Tier 1 - from 1 to 4	2.39	2.99	2.49	3.11
Tier 2 - over 10 and up to 55	Tier 2 - over 4 and up to 9	2.91	3.64	3.10	3.88
Tier 3 - over 55 to 120	Tier 3 - over 9 and up to 16	4.23	5.29	4.61	5.76
Tier 4 over 120 +	Tier 4 - over 16+	7.67	9.59	8.41	10.51
Non-residential rate (Commercial, Governmental and Schools)		3.79	4.74	4.09	5.11

**MWD ALLOCATION PENALTY RATES**

Member agency allocations are enforced through a penalty rate structure. The rates are based on MWD's established tiered price structure. Penalty rates and charges will only be assessed to the extent that an agency's total annual usage exceeds its total annual allocation. It is anticipated that penalties will be assessed during the month of August 2010; approximately one month after the allocation year has closed. This timeframe will allow MWD and the respective agency to reconcile any consumption differences. MWD anticipates applying any funds collected towards investments in conservation and local resource development. The penalty rate structure is an ascending block structure that provides a lower penalty for minor overuse of allocations and a higher penalty for major overuse of allocations. The structure and penalty rates are listed below.

**Preferential Penalty Rates**

Water Use	Base Water Rate	Penalty Rate	Total Rate
100% of Allocation	Tier 1	0	Tier 1
Between 100% and 115%	Tier 1(\$698)	1 x Tier 2 (\$848)	Tier 1 + (1 x Tier 2)
Greater than 115%	Tier 1 (\$698)	3 X Tier 2 (\$2,544)	Tier 1 + (3 x Tier 2)

\* Reflects a discounted penalty rate schedule in recognition of a member agency's preferential rights.

It is important to note the last time MWD put in place penalty rates, Beverly Hills was the only member agency that did not meet restriction levels and was thus faced with penalties.

**MWD CURRENT PURCHASE RATE**

	Current Rate Effective 1/1/09	Effective 9/1/09
Full Service Treated Volumetric Cost (\$/AF)		
Tier 1	\$579	\$698
Tier 2	\$695	\$848

\*These levels are based on assumed total sales of 2.12 million acre-feet

\*\* Historically the City has never purchased water at Tier 2 rates

**Notification**

In April of last year, when water rates were last adjusted, the City mailed notices to all its residential and commercial customers notifying them of the existence of a Water Conservation Ordinance and the potential adoption of said document anytime through July 2011. This served to satisfy Prop. 218 requirements while also allowing for a quicker implementation of the ordinance. Just as Stage A required a public hearing (held on July 15, 2008), so too will the adoption of the more restrictive Stage B, which is scheduled for May 5, 2008.

The following newspapers published that this item would be before City Council on May 13, 2009, as the notification last year clearly stated to customers:

Beverly Hills Courier

Beverly Hills Weekly

The Hollywood Independent (for West Hollywood customers)

Staff is currently working with the Administrative Services Department to develop bill notice inserts and customer baseline estimates. Upon City Council's declaration, staff aims to inform each customer sometime in late May/early June in order to allow sufficient time to adopt more prudent and water-wise consumption practices before the stage takes effect on July 1, 2009. In collaboration with the Office of Communications, staff will also assist in promoting a tailored marketing campaign throughout the City.

**FISCAL IMPACT**

This action is being taken to encourage a level of conservation commensurate with the allocation reduction imposed by the Metropolitan Water District. Staff assigned to promote and manage this effort is already employed by the City, whose positions are partly funded by the Water Enterprise Fund.

  
\_\_\_\_\_  
Scott Miller  
Finance Approval

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

# **Attachment 1**

Resolution

RESOLUTION NO. 09-R-\_\_\_\_\_

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

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's announcement of a regional shortage level 2 (equal to ten percent) will compel the water wholesaler to limit the amount of purchasable water to its member agencies. In light of this water emergency and for the reasons set forth in the agenda report presented to the City Council on May 13, 2009, the City Manager has determined that a ten percent (10%) reduction in potable water use is required and that water conservation Stage "B" 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 May 13, 2009, the City Council held a duly noticed public hearing to consider the recommendations of the Environmental Utilities Manager to implement water conservation Stage "B." After receiving oral and written testimony, including the agenda report, the City Council hereby determines as follows:

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

(b) The Environmental Utilities Manager and/or appropriate City Staff shall hereby communicate to residents, visitors and businesses the following mandatory 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 within seven days notification to the property owner by the City; and (iv) water usage shall be reduced to ninety percent (90%) of the baseline year amount as determined by the City Manager; and the watering of lawns and other landscape shall occur in accordance to a watering schedule promulgated by the Environmental Utilities Manager. In addition to these elements, the City Council hereby authorizes the City Manager or his designee to implement other mandatory water conservation elements as determined necessary by the City Manager in order to achieve a ten percent (10%) reduction in potable water use.

(c) 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.

(d) Violation by any person of the stage "B" mandatory requirements described in subsection (b) 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 described in subsection (b), and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly.

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:

\_\_\_\_\_  
NANCY KRASNE  
Mayor of the City of Beverly Hills,  
California

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
DAVID D. GUSTAVSON  
Director of Public Works and Transportation

## **Attachment 2**

Notice of Public Hearing - 2008



April 1, 2008

**Hearing Date:  
May 20, 2008 at 7:00 PM Council Chambers  
455 North Rexford Drive, Beverly Hills**

RE: Water Conservation Rates Notice

Dear residents and business customers:

On March 3, 1992, during our last major water shortage, the Beverly Hills City Council adopted a comprehensive water conservation ordinance. The ordinance establishes procedures to encourage proper potable water use, regulate potable water use during drought conditions and/or water emergency restrictions due to supply limitations. The ability to manage water supplies in times of drought or other emergencies is an important part of water resource management in a community. Depending upon the water shortage conditions, increasingly more restrictive mandatory conservation measures are identified in the ordinance, with fewer restrictions under Stage A and more stringent restrictions under Stage E. The conservation stages allow for a tiered reduction in water consumption and the assessment of progressive penalty surcharges for water use overages.

Although voluntary water conservation practices are encouraged at all times of the year, the City may, in the event of water shortage conditions, call for the implementation of its water conservation ordinance. The City receives approximately 90% of its water supply from MWD which imports its water from the State Water Project and the Colorado River.

The City's water conservation ordinance incorporates water conservation stages to encourage efficient water usage. The premise of the water stages is simple: each progressive water stage is subject to greater conservation measures. The stages are as follows:

Stages:

Stage "A" shortage calls for a five (5%) reduction in potable water use.

Stage "B" shortage calls for a ten percent (10%) reduction in potable water use.

Stage "C" shortage calls for a twenty percent (20%) reduction in potable water use.

Stage "D" shortage calls for a thirty percent (30%) or higher reduction in potable water use.

Stage "E" shortage is declared in the event a catastrophic interruption of potable water supply occurs. The City shall have emergency water allocation authority which includes the interruption of service to appropriate City service zones.

Over

To facilitate review and understanding of the stages, an example of Stage “C” compliance elements and its associated fines for any water overage use is provided as follows:

1.
  - 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.
  
2. In the event a consumer violates water usage requirements as dictated by Stage “C”, they would be assessed for the overage accordingly: If a residential customer normally consumes 100 units then Stage “C” allocation would require consumers use only 80 units – excess consumption above 80 but under 100 units would be assessed triple the tier 3 rate. If consumption exceeds 100 units any overage will be assessed up to ten times the tier 3 rate and then tier 4 if the customer used over 120 units.
  
3. 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).

	Stage A	Stage B	Stage C	Stage D
Baseline (% of Average Usage)	100%	90%	80%	70%
Penalty				
Baseline to 100% (factor times rates)	1 X	2 X	3 X	4 X
Greater than 100% (factor times rates)	1 X	2 X	10 X	10 X

Should the City determine that conditions exist for the initiation of any of the stages noted above from now until July 2011, the provisions of the water conservation ordinance will be implemented following a public hearing before the City Council. City residents and business customers will be notified through publication in the Beverly Hills Weekly and Beverly Hills Courier. The amount of these fees is based upon the City’s determination of the fee structure necessary to encourage sufficient conservation to meet the needs of each stage of water emergency.

**The City is hosting this hearing to provide its community with crucial information and announce possible actions it may take to address water shortage conditions in the future. This hearing is not being held to announce the implementation of the water conservation ordinance but, rather, for informational purposes, and to enable a forum whereby City officials can hear and consider any concerns, objections to the proposed conservation rates, or other pertinent matter its residents and businesses may wish to relay regarding this notice.**

## **Attachment 3**

Notice of Public Hearing - 2009

# CALIFORNIA NEWSPAPER SERVICE BUREAU

## DAILY JOURNAL CORPORATION

Mailing Address : 915 E FIRST ST, LOS ANGELES, CA 90012  
Telephone (213) 229-5300 / Fax (213) 229-5481  
Visit us @ WWW.DAILYJOURNAL.COM

Jackie Perez  
CITY OF BEVERLY HILLS/ CITY CLERK'S  
OFFICE  
455 N. REXFORD DR., ROOM 290  
BEVERLY HILLS, CA 90210

HIN# 1573761

### NOTICE OF PUBLIC HEARING

The City Council of the City of Beverly Hills at its regular meeting to be held on **Tuesday, May 13, 2009, 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 B"

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 B 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 290, 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 public hearing.

BYRON POPE, CMC City Clerk  
4/30/09  
**HIN-1573761#**  
**LOS ANGELES INDEPENDENT**

## COPY OF NOTICE

Notice Type: HRG NOTICE OF HEARING  
Ad Description: PH - Water Conservation Stage B.

To the right is a copy of the notice you sent to us for publication in the LOS ANGELES INDEPENDENT. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

04/30/2009

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

Publication	\$134.40
Total	\$134.40

California Newspaper Service Bureau / Daily Journal Corporation

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SAN DIEGO	(619) 232-3486
SAN FRANCISCO	(800) 640-4829
SAN JOSE	(408) 287-4866
SANTA ANA	(714) 543-2027
SANTA ROSA	(707) 545-1166





City Clerk's Office

## NOTICE OF PUBLIC HEARING

The City Council of the City of Beverly Hills at its adjourned regular meeting to be held on **Wednesday, May 13, 2009, 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 B"***

Pursuant to the City's Emergency Water Conservation Plan Ordinance set forth in Section 9-4-301et. 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 B 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 290, 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 public hearing.

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

BYRON POPE, CMC  
City Clerk

# **Attachment 4**

## Watering Schedule Map



# Stage B Declaration - Citywide Watering Schedule

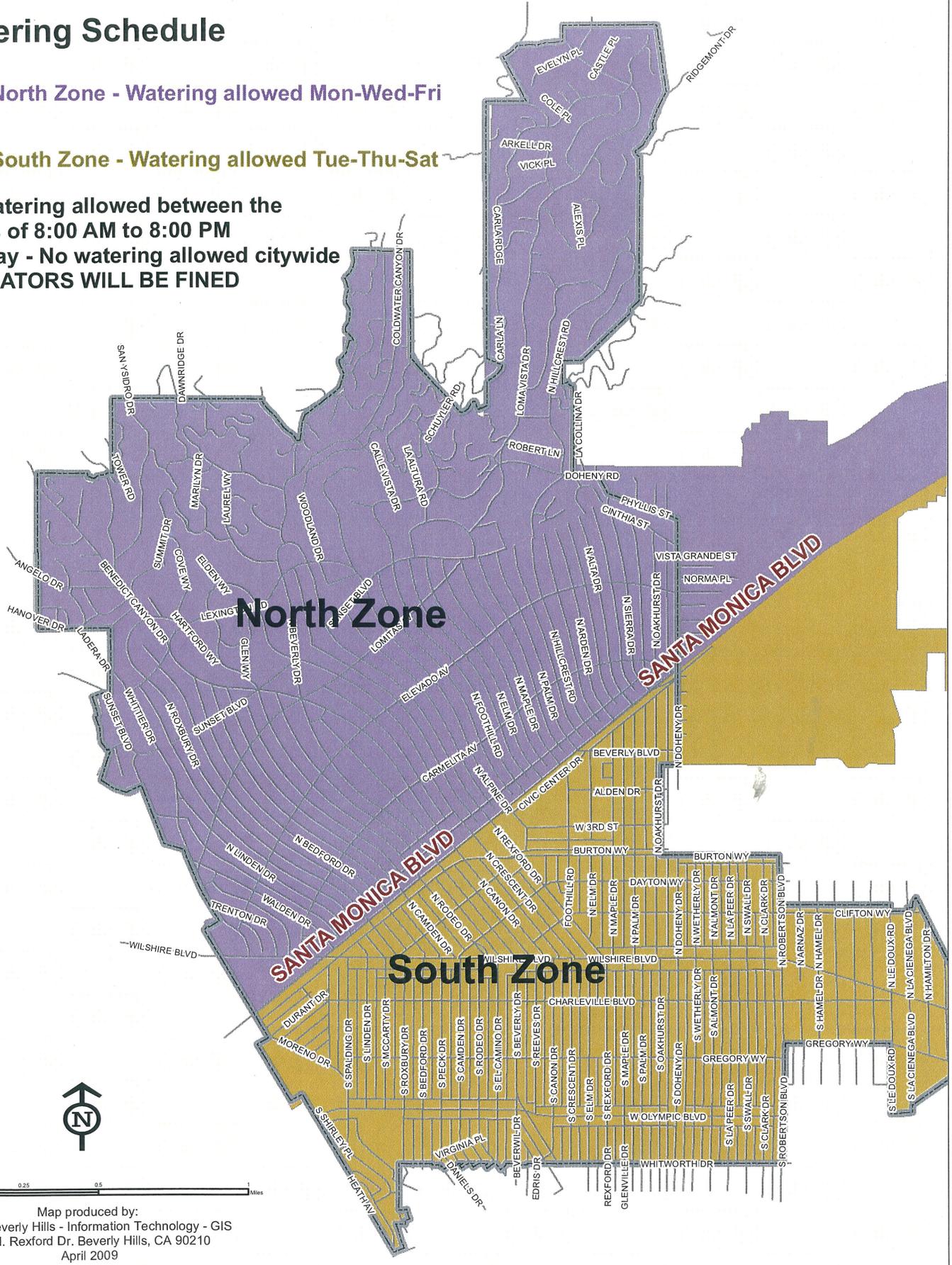
## Beverly Hills, California (effective July 1, 2009 through June 30, 2010)

### Watering Schedule

 North Zone - Watering allowed Mon-Wed-Fri

 South Zone - Watering allowed Tue-Thu-Sat

No watering allowed between the hours of 8:00 AM to 8:00 PM  
 Sunday - No watering allowed citywide  
 \*VIOLATORS WILL BE FINED



# **Attachment 5**

Draft Customer Notice Letter



Dear Customer:

On May 13, 2009, the City Council of Beverly Hills declared Stage B of its Emergency Water Conservation Ordinance, which mandates all water customers conserve 10% from a three year average baseline that includes Fiscal Years (2005 to 2007). This declaration is in conjunction with the state of California's restrictions of water use from the State Water Project that affects the availability of water to the City's wholesaler Metropolitan Water District.

The following information is very important for you to begin assessing what degree of water conservation you will need to undertake to avoid penalty rates.

- The average billing usage in hundred cubic feet (1 hcf = 748 gallons) is \_\_\_\_.
- You are being allotted the following amount \_\_\_\_ hcf for each billing period beginning July 1, 2009.
- For the billing period that fell between the months of July through September (summer months) of last year you used \_\_\_\_ hcf.

If you exceed your allocation you will pay two (2) times the regular tier that amount of water is charged. Please visit [www.beverlyhills.org](http://www.beverlyhills.org) to see the rate schedule or call 310.285 2436.

In addition to the allocations being set for each account, the City is establishing restrictions on water usage that will be fined up to \$100 if violated. Those abuses include watering at improper times, watering the sidewalk, not fixing leaks within 7 days of notification, etc.

Visit [www.bewaterwise.com](http://www.bewaterwise.com) to learn about how to conserve water. Remember the greatest amount of water used in Beverly Hills is on irrigation, that is where you can make the biggest difference.

Sincerely,

Shana Epstein  
Environmental Utilities Manager