



AGENDA REPORT

Meeting Date: May 18, 2015

Item Number: D-7

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney

Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING EMERGENCY WATER CONSERVATION PROVISIONS

Attachment: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading and adopt the ordinance, entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE EMERGENCY WATER CONSERVATION PROVISIONS."

INTRODUCTION

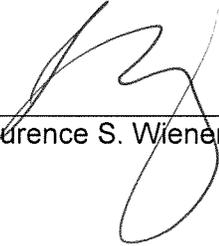
This ordinance amends the Municipal Code to allow the City Council to establish appropriate penalty surcharges related to the City's emergency water conservation stages so that such penalties are consistent with State law, and allows the City Council to modify by resolution any of the requirements contained in the stages of water conservation if it is in the best interests of the City or, if needed, to comply with any State Water Board regulations.

DISCUSSION

At its meeting of May 5, 2015, the City Council conducted a first reading and introduced the ordinance.

FISCAL IMPACT

Implementation of any penalty surcharges, changes to water rate structure, or water conservation efforts will impact the City's water revenues. Impacts on revenues will be included in the study and brought back to the City Council for consideration when completed.



Laurence S. Wiener, City Attorney

Attachment 1

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING EMERGENCY WATER CONSERVATION PROVISIONS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council hereby amends and restates Section 9-4-302 (“GENERAL PROHIBITION; APPLICABILITY”) of Article 3 (“EMERGENCY WATER CONSERVATION PLAN”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“9-4-302: GENERAL PROHIBITION; PENALTY SURCHARGE; APPLICABILITY:

A. No person shall use or permit the use of water from the city for residential, commercial, industrial, governmental, or any other purposes in violation of any provision of this article or in an amount in excess of the use that is permitted by the water conservation stages defined below.

B. A penalty surcharge may be assessed for water usage contrary to the provisions of this Article or any water conservation measure adopted by the City Council in an amount set by resolution of the City Council.

C. The provisions of this article shall apply to all persons, customers and property served by the city of Beverly Hills, public works department - utilities division wherever situated.”

Section 2. The City Council hereby amends and restates Section 9-4-303 (“DECLARATION OF WATER CONSERVATION STAGES”) of Article 3 (“EMERGENCY WATER CONSERVATION PLAN”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“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 city council may modify by resolution any of the requirements contained in the stages of water conservation set forth in Section 9-4-304 if the City Council determines that the modification is in the best interests of the city or is appropriate to promote compliance with any regulation mandated by the State Water Board.

C. The resolution by the city council implementing or terminating conservation stages shall be published within ten (10) days after its adoption at least once in a newspaper of general circulation within the city and the implementing resolution shall be 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.

D. 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.”

Section 3. The City Council hereby amends and restates Section 9-4-304 (“REQUIREMENTS FOR WATER CONSERVATION STAGES”) of Article 3 (“EMERGENCY WATER CONSERVATION PLAN”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of the Beverly Hills Municipal Code to read as follows:

“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. Except for single-family and multi-family residential users in tier 1 who will remain in tier 1 for the next billing cycle, all users shall reduce water usage to ninety percent (90%) of the amount in the baseline period as determined by the city council.

3. 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. Except for single-family and multi-family residential users in tier 1 who will remain in tier 1 for the next billing cycle, all users shall reduce water usage to eighty percent (80%) of the amount in the baseline period as determined by the city council.

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 (\$500.00). 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 or safety reasons;

f. Operation of water fountains shall be prohibited unless the water is recirculated;

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 firefighting, related activities or other activities necessary to maintain the public health, safety and welfare;

i. Except for single-family and multi-family residential users in tier 1 who will remain in tier 1 for the next billing cycle, users shall reduce water usage to seventy percent (70%) of the amount in the baseline period as determined by the city council.

3. 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.”

Section 4. The City Council hereby amends and restates Section 1-3-306 (“CONTENT OF COMPLIANCE ORDER”) of Article 3 (“ADMINISTRATIVE PENALTIES”) of Chapter 3 (“CODE VIOLATIONS”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

“1-3-306: CONTENT OF COMPLIANCE ORDER:

A compliance order shall contain all of the following information:

A. The date and location of the violation and the approximate time the violation occurred.

B. The city code section violated and a description of the violation.

C. The action required to correct the violation and the date by which such action must be completed. Except for orders to comply with Article 3 (“EMERGENCY WATER CONSERVATION PLAN”) of Chapter 4 (“WATER REGULATIONS”) of Title 9 (“BUILDING AND PROPERTY HEALTH AND SAFETY REGULATIONS”) of this Code, the date for compliance shall not be less than twenty (20) days from the date the compliance order is served.

D. The consequences of failing to correct the violation, including a description of the administrative hearing procedure and appeal process.

E. The time period after which administrative fines will begin to accrue if there is no compliance with the order.

F. The amount of the fine that will be imposed if there is no compliance with the order.

G. The name and signature of the citing official. “

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any

court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the city Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

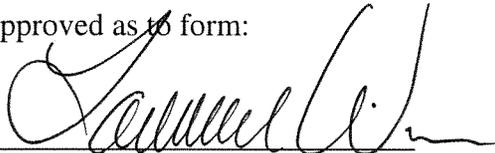
Adopted:
Effective:

JULIAN A. GOLD, M.D.
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:

MAHDI ALUZRI
Interim City Manager