



## **CITY OF BEVERLY HILLS STAFF REPORT**

**Meeting Date:** February 19, 2008  
**To:** Honorable Mayor & City Council  
**From:** Shana Epstein, Environmental Utilities Manager  
**Subject:** Implementation of the Emergency Water Conservation Ordinance  
**Attachments:** 1. Municipal Code 9-4-303 through 9-4-308

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### **INTRODUCTION**

As the rain pours down this winter, it is still not a time to rejoice and use water indiscriminately. The City of Beverly Hills receives 90% of its potable water supply from the Colorado River and the State Water Project. The Colorado River is under great demand from all the states east of California as well as Mexico, while at the same time its basin has been suffering from drought. The State Water Project, which is operated by the State Department of Water Resources (DWR), has experienced not only dry years in the recent past, but judicial set backs due to protecting the ecosystem in the Bay Delta. With all of these interlocking issues, Metropolitan Water District (MWD) is taking before its Board this month a water shortage allocation plan that includes ten scenarios that range from 5% to 50% region-wide conservation with penalty rates. One of these scenarios may become effective as soon as July 1, 2008.

In 1992, the City approved an emergency water conservation ordinance. The water conservation measures in this ordinance are now part of the City's municipal code as attached. This tool allows the City to act in situations such as the pending allocations from MWD. Staff is seeking from the City Council guidance in when to implement portions of the municipal code to encourage water conservation.

### **DISCUSSION**

The City's Municipal Code allows for fines and rates to be used as disincentives to conserve. So far the City has been requesting customers to conserve voluntarily. By implementing the fines to encourage active conservation such as not serving water at restaurants unless requested, staff expects more attention to be given to conservation.

Staff is recommending the following active conservation actions be encouraged and subject to a \$100 fine prior to final shortage allocations being determined by MWD:

- 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;

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- 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;
- e. 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;
- f. 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.

Staff is preparing various forms of public relations materials such as advertisements in the newspapers and a school handout to educate the community in general about simple water conservation actions. In addition, staff is requesting to use the City's Teleminder system on a limited basis to call customers and remind them to turn off their sprinklers when it rains.

If and when MWD declares a water shortage using their proposed allocation plan, the City will need to immediately be conserving as not to exceed its annual allotment. By using the existing code to encourage water conservation, staff is hoping to hedge off customers being fiscally impacted by the drastic rate structure outlined in the municipal code.

The City's existing rate structure is considered a conservation rate structure, but at the time of mandatory conservation the City has to implement more stringent consumption rates. Staff will advise customers of these pending emergency water conservation rates with the notice for regular rate discussions so that the City may quickly change the rates in case the City as a whole does not conserve. If conservation is not achieved, the City Water Enterprise Fund will be impacted by MWD's penalty rates.

**FISCAL IMPACT**

At this time the City will use existing staff to implement the enforcement of these conservation measures. If this implementation proves not to be effective, then staff will come back at a later date with a request for more resources. The revenue generated from the fines will be deposited into the Water Enterprise Fund.

**RECOMMENDATION**

Staff recommends that the City Council approve the notification to implement the water conservation savings measures that are enforceable through a fine of \$100 be noticed and brought back before the City Council at the earliest possible regular meeting.

  
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David Gustavson  
Approved By



## CITY OF BEVERLY HILLS

### PORTION OF THE CITY'S MUNICIPAL CODE

#### **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 a 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:

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- 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.

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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.

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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.

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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)