

ORDINANCE NO. 180148

An ordinance amending Chapter XII, Article I of the Los Angeles Municipal Code to establish additional prohibited uses of water and eliminate water rationing requirements under the Water Conservation Plan of the City of Los Angeles.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Chapter XII, Article I, of the Los Angeles Municipal Code is amended in its entirety to read:

**ARTICLE I
EMERGENCY WATER CONSERVATION PLAN**

SEC. 121.00. SCOPE AND TITLE.

This Article shall be known as The Emergency Water Conservation Plan of the City of Los Angeles.

SEC. 121.01. DECLARATION OF POLICY.

It is hereby declared that because of the conditions prevailing in the City of Los Angeles and in the areas of this State and elsewhere from which the City obtains its water supplies, the general welfare requires that the water resources available to the City be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interests of the people of the City and for the public welfare.

SEC. 121.02. DECLARATION OF PURPOSE.

The purpose of this Article is to provide a mandatory water conservation plan to minimize the effect of a shortage of water to the customers of the City and, by means of this Article, to adopt provisions that will significantly reduce the consumption of water over an extended period of time, thereby extending the available water required for the customers of the City while reducing the hardship of the City and the general public to the greatest extent possible, voluntary conservation efforts having proved to be insufficient.

SEC. 121.03. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section unless from the context a different meaning is

intended or unless a different meaning is specifically defined within individual sections of this Article:

- a. "**City**" means The City of Los Angeles.
- b. "**Mayor**" means the Mayor of The City of Los Angeles
- c. "**City Council**" means the Council of The City of Los Angeles.
- d. "**Department**" means the Department of Water and Power.
- e. "**Section**" means a section of this Article unless some other ordinance or statute is specifically mentioned.
- f. "**Customer**" means any person, persons, association, corporation or governmental agency supplied or entitled to be supplied with water service by the Department.
- g. "**Article**" means "**The Emergency Water Conservation Plan of The City of Los Angeles**".
- h. "**Conservation Phase**" means that level of mandatory water conservation presently required from customers pursuant to this Article.
- i. "**Officer**" means every person designated in Section 200 of the Los Angeles City Charter as an officer of The City of Los Angeles.
- j. "**His**" as used herein includes masculine, feminine or neuter, as appropriate.
- k. "**Process Water**" means water used to manufacture, alter, convert, clean, heat, or cool a product, or the equipment used for such purpose; water used for plant and equipment washing and for transporting-the raw materials and products; and water used to grow trees or plants for sale or installation.
- l. "**Billing Unit**" means the unit amount of water used to apply water rates for purposes of calculating commodity charges for customer water usage and equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.
- m. "**Gray Water**" means a customer's second or subsequent use of water supplied by the Department on the customer's premises, such as the use of laundry or dishwashing water for other purposes.

n. **“Irrigate”** means any exterior application of water, other than for firefighting purposes or as process water, including but not limited to the watering of any vegetation whether it be natural or planted.

o. **“Single pass cooling systems”** means equipment where water is circulated only once to cool equipment before being disposed.

p. **“Potable Water”** means water supplied by the Department which is suitable for drinking and excludes recycled water from any source.

SEC. 121.04. AUTHORIZATION.

The various officers, boards, departments, bureaus and agencies of the City are hereby authorized and directed to immediately implement the applicable provisions of this Article upon the effective date hereof.

SEC. 121.05. APPLICATION.

The provisions of this Article shall apply to all customers and property served by the Department of Water and Power wherever situated, and shall also apply to all property and facilities owned, maintained, operated or under the jurisdiction of the various officers, boards, departments, bureaus or agencies of the City.

SEC. 121.06. WATER CONSERVATION PHASES.

A. No customer of the Department of Water and Power shall make, cause, use, or permit the use of water from the Department for any residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Article. The waste or unreasonable use of water is prohibited.

B. For the purposes of this Article a use of water by a tenant or by an employee, agent, contractor or other acting on behalf of a customer whether with real or ostensible authority shall be imputed to the customer. Nothing contained in this Article shall limit the remedies available to a customer under law or equity for the actions of a tenant, agent, contractor or other acting on behalf of a customer.

SEC. 121.07. CONSERVATION PHASE IMPLEMENTATION.

A. Notwithstanding any other provisions of this Article, the provisions of Section 121.08A, Phase I, Prohibited Uses applicable to all customers, shall take effect immediately upon the effective date of this Article, shall be permanent and shall not be subject to termination pursuant to the provisions of this Article providing for the termination of a conservation phase.

B. The Department shall monitor and evaluate the projected supply and demand for water by its customers monthly, and shall recommend to the Mayor and

Council the extent of the conservation required by the customers of the Department in order for the Department to prudently plan for and supply water to its customers. The Mayor shall, in turn, independently evaluate such recommendation and notify the Council of the Mayor's determination as to the particular phase of water conservation, Phase I through Phase VI, that should be implemented. Thereafter, the Mayor may, with the concurrence of the Council, order that the appropriate phase of water conservation be implemented in accordance with the applicable provisions of this Article. Said order shall be made by public proclamation and shall be published one time only in a daily newspaper of general circulation and shall become effective immediately upon such publication. The prohibited water uses for each phase shall take effect with the first full billing period commencing on or after the effective date of the public proclamation by the Mayor.

In the event the Mayor independently recommends to the Council a phase of conservation different from that recommended by the Department, the Mayor shall include detailed supporting data and the reasons for the independent recommendation in the notification to the Council of the Mayor's determination as to the appropriate phase of conservation to be implemented.

C. Phase Termination

1. At such time as the Department reports an April 1 forecast of annual Owens Valley and Mono Basin Runoff equal to or exceeding 110 percent of normal and the Metropolitan Water District officially states that the sum of its Colorado River and State Water Project supplies exceeds 100 percent of projected demand, the Mayor shall forthwith recommend to the Council the termination of any customer curtailment phase then in effect. Said recommendation to terminate shall take effect upon concurrence of the Council.

2. The provisions of Subsection C1 above shall not preclude the Department on the basis of information available to it from recommending to the Mayor the termination of a water conservation phase then in effect. The Mayor shall forward said recommendation to the Council and it shall take effect upon concurrence by the Council.

SEC. 121.08. WATER CONSERVATION PHASES.

A. PHASE I

Prohibited Uses Applicable To All Customers.

1. No customer of the Department shall use a water hose to wash any hard or paved surfaces including, but not limited to, sidewalks, walkways, driveways, and parking areas, except that, flammable or other dangerous substances may be, if otherwise permitted by law, disposed of by direct hose flushing for the benefit of public health and safety. This section shall not apply to

Department-approved water conserving spray cleaning devices. A simple spray nozzle does not qualify.

2. No customer of the Department shall use water to clean, fill or maintain levels in decorative fountains, ponds, lakes, or similar structures used for aesthetic purposes unless such water is part of a recirculating system.

3. No restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for-sale, shall serve drinking water to any person unless expressly requested.

4. No customer of the Department shall permit water to leak from any pipe or fixture on the customer's premises; failure or refusal to affect a timely repair of any leak of which the customer knows or has reason to know shall subject said customer to all penalties provided herein for a prohibited use of water.

5. No customer of the Department shall wash a vehicle with a hose if the hose does not have a self-closing water shut-off or device attached to it, or otherwise allow a hose to run continuously while washing a vehicle.

6. No customer of the Department shall irrigate during periods of rain.

7. No customer of the Department shall water or irrigate lawn, landscape, or other vegetated areas between the hours of 9:00 a.m. and 4:00 p.m. provided further that commercial nurseries holding a current City Business Tax Registration Certificate shall be exempt from the provisions of this subsection.

8. All irrigating of landscape with potable water using stream rotator-type or gear-driven sprinklers shall be limited to no more than fifteen (15) minutes per watering day per station, or shall be limited to no more than ten (10) minutes per watering day per station for all other types of sprinklers. Exempt from these landscape irrigation restrictions are irrigation systems using very low-flow drip-type irrigation when no emitter produces more than two (2) gallons of water per hour. This provision does not apply to Schedule F water customers or water service that has been granted the General Provision M rate adjustment under the City's Water Rates Ordinance, subject to the customer having complied with best management practices for irrigation approved by the Department.

9. No customer of the Department shall water or irrigate any lawn, landscape, or other vegetated area in a manner that causes or allows excess or continuous water flow or runoff onto an adjoining sidewalk, driveway, street, gutter or ditch.

10. No installation of single pass cooling systems shall be permitted in buildings requesting new water service.

11. No installation of non-recirculating systems shall be permitted in new conveyor car wash and new commercial laundry systems.

12. Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each bathroom using clear and easily understood language. The Department shall make suitable displays available.

13. No large landscape areas, such as parks and open fields, shall have irrigation systems without rain sensors that shut off the irrigation systems.

14. The prohibited uses set forth in this subsection do not apply to Gray Water. This provision shall not be construed to authorize the use of Gray Water if such use is otherwise prohibited by law.

B. PHASE II

1. **Prohibited Uses Applicable To All Customers.** Should Phase II be implemented, Phase I of Section 121.08 shall continue to remain in effect.

2. **Non-Watering Days.** No landscape irrigation shall be permitted on any day other than Monday, Thursday, or Saturday.

3. These provisions do not apply to hand-held hose watering of vegetation, if the hose is equipped with a self-closing water shut-off or device, which is allowed every day during Phase II except between the hours of 9:00 a.m. and 4:00 p.m.

C. PHASE III

1. **Prohibited Uses Applicable To All Customers.** Should Phase III be implemented, Phases I and II of Section 121.08 shall continue to remain in effect.

2. **Non-Watering Days.** No landscape irrigation shall be permitted on any day other than Monday or Thursday.

D. PHASE IV

1. **Prohibited Uses Applicable to All Customers.** Should Phase IV be implemented, Phases I, II, and III of Section 121.08 shall continue to remain in effect.

2. Non-Watering Days. No landscape irrigation shall be permitted on any day other than Monday.

3. No washing of vehicles allowed.

4. No filling of residential swimming pools and spas with potable water.

E. PHASE V

1. **Prohibited Uses Applicable To All Customers.** Should Phase V be implemented, Phases I, II, III, and IV of Section 121.08 shall continue to remain in effect.

2. Non-Watering Days. No landscape irrigation allowed.

F. PHASE VI

1. **Prohibited Uses Applicable To All Customers.** Phases I, II, III, IV, and V of Section 121.08 shall continue to remain in effect.

2. **Additional Prohibited Uses -** The Board of Water and Power Commissioners is hereby authorized to implement additional prohibited uses of water based on the water supply situation. Any additional prohibition shall be published at least once in a daily newspaper of general circulation and shall become effective immediately upon such publication and shall remain in effect until cancelled.

G. EXCEPTION. The prohibited uses of water provided for by Subsections A, B, C, D, E, and F of this section are not applicable to the uses of water necessary for public health and safety or for essential government services such as police, fire, and other similar emergency services.

SEC. 121.09 FAILURE TO COMPLY.

A. Penalties – water meters smaller than two inches (2”). It shall be unlawful for any customer of the Department to fail to comply with any of the provisions of this Article. Notwithstanding any other provision of the Los Angeles Municipal Code, the penalties set forth herein shall be exclusive and not cumulative with any other provisions of this Code. The penalties for failure to comply with any of the provisions of this Article shall be as follows:

1. For the first violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08, the Department shall issue a written notice of the fact of such violation to the customer.

2. For a second violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of one hundred dollars (\$100.00) shall be added to the customer's water bill.

3. For a third violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of two hundred dollars (\$200.00) shall be added to the customer's water bill.

4. For a fourth and any subsequent violation by a customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of three hundred dollars (\$300.00) shall be added to the customer's water bill.

5. After a fifth or subsequent violation, the Department may install a flow restricting device of one gallon per minute (1 GPM) capacity for services up to one and one-half inch (1-1/2") size and comparatively sized restrictors for larger services or terminate a customer's service, in addition to the financial surcharges provided for herein. Such action shall be taken only after a hearing held by the Department where the customer has an opportunity to respond to the Department's information or evidence that the customer has repeatedly violated this Article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this Article and Department rules regarding the conservation of water.

Any such restricted or terminated service may be restored upon application of the customer made not less than forty-eight (48) hours after the implementation of the action restricting or terminating service and only upon a showing by the customer that the customer is ready, willing and able to comply with the provisions of this Article and Department rules regarding the conservation of water. Prior to any restoration of service, the customer shall pay all Department charges for any restriction or termination of service and its restoration as provided for in the Department's rules governing water service, including but not limited to payment of all past due bills and fines.

B. Penalties – water meters two inches (2") and larger. It shall be unlawful for any customer of the Department to fail to comply with any of the provisions of this Article. Notwithstanding any other provision of the Los Angeles Municipal Code, the penalties set forth herein shall be exclusive and not cumulative with any other provisions of this Code. The penalties for failure to comply with any of the provisions of this Article shall be as follows:

1. For the first violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08, the Department shall issue a written notice of the fact of such violation to the commercial or industrial customer.

2. For a second violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of two hundred dollars (\$200.00) shall be added to the customer's water bill.

3. For a third violation by any customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of four hundred dollars (\$400.00) shall be added to the customer's water bill.

4. For a fourth and any subsequent violation by a customer of any of the provisions of Subsection A, B, C and D of Section 121.08 within the preceding twelve (12) calendar months, a surcharge in the amount of six hundred dollars (\$600.00) shall be added to the customer's water bill.

5. After a fifth or subsequent violation, the Department may install a flow restricting device or terminate a customer's service, in addition to the financial surcharges provided for herein. Such action shall be taken only after a hearing held by the Department where the customer has an opportunity to respond to the Department's information or evidence that the customer has repeatedly violated this Article or Department rules regarding the conservation of water and that such action is reasonably necessary to assure compliance with this Article and Department rules regarding the conservation of water.

Any such restricted or terminated service may be restored upon application of the customer made not less than forty-eight (48) hours after the implementation of the action restricting or terminating service and only upon a showing by the customer that the customer is ready, willing and able to comply with the provisions of this Article and Department rules regarding the conservation of water. Prior to any restoration of service, the customer shall pay all Department charges for any restriction or termination of service and its restoration as provided for in the Department's rules governing water service, including but not limited to payment of all past due bills and fines.

C. Notice. The Department shall give notice of each violation to the customer committing such violation as follows:

1. For any violation of the provisions of Section 121.08 the Department may give written notice of the fact of such violation to the

customer personally, by posting a notice at a conspicuous place on the customer's premises, or by United States mail, First Class, postage prepaid addressed to the customer's billing address.

2. If the penalty assessed is, or includes, the installation of a flow restrictor or the termination of water service to the customer, notice of the violation shall be given in the following manner:

(a) By giving written notice thereof to the customer personally; or

(b) If the customer is absent from or unavailable at either his place of residence or his place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the United States mail, First Class postage prepaid, addressed to the customer at his place of business, residence, or such other address provided by the customer for bills for water or electric service if such can be ascertained; or

(c) If such place of residence, business or other address cannot be ascertained, or a person of suitable age or discretion at any such place cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring and also by delivering a copy to a person of suitable age and discretion there residing, or employed, if such person can be found, and also sending a copy through the United States mail, First Class, postage prepaid, addressed to the customer at the place where the property is situated as well as such other address provided by the customer for bills for water or electric service if such can be ascertained.

Said notice shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and statement informing the customer of his right to a hearing on the violation.

D. Hearing. Any customer who disputes any penalty levied pursuant to this section shall have a right to a dispute determination conducted pursuant to the Department's Rules Governing Water and Electric Service. Any customer dissatisfied with the Department's dispute determination may appeal that determination within 15 days of issuance to the Board of Water and Power Commissioners, or to a designated hearing officer at the election of the Board. The provisions of Sections 19.24, 19.25, 19.26 and Sections 19.29 through 19.39 of the Los Angeles Administrative Code shall apply to such appeals. All defenses, both equitable and legal, may be asserted by a customer in the appeal

process. The decisions of the Board of Water and Power Commissioners shall become final at the expiration of 45 calendar days, unless the Council acts within that time by a majority vote to bring the action before it or to waive review of the action. If the Council timely asserts jurisdiction, the Council may, by a majority vote, amend, veto or approve the action of the Board of Water and Power Commissioners within 21 calendar days of voting to bring the matter before it, or the action of the Board of Water and Power Commissioners shall become final. If the City Council asserts jurisdiction over the matter and acts within 21 calendar days of voting to bring the matter before it, the City Council's action shall be the final decision.

E. Reservation of Rights. The rights of the Department hereunder shall be cumulative to any other right of the Department to discontinue service. All monies collected by the Department pursuant to any of the surcharge provisions of this Article shall be deposited in the Water Revenue Fund as reimbursement for the Department's costs and expenses of administering and enforcing this Article.

SEC. 121.10. GENERAL PROVISIONS.

A. Enforcement. The Department of Water and Power shall enforce the provisions of this Article.

B. Department to Give Effect to Legislative Intent. The Department shall provide water to its customers in accordance with the provisions of this Article, and in a manner reasonably calculated to effectuate the intent hereof.

C. Public Health and Safety Not to be Affected. Nothing contained in this Article shall be construed to require the Department to curtail the supply of water to any customer when, in the discretion of the Department, such water is required by that customer to maintain an adequate level of public health and safety; provided further that a customer's use of water to wash the customer's property immediately following the aerial application of a pesticide, such as Malathion, shall not constitute a violation of this Article.

D. Reclaimed Water. The provisions of this Article shall not apply to the use of reclaimed water, provided that such use does not result in excess water flow or runoff onto the adjoining sidewalk, driveway, street, gutter, or ditch.

E. Large Turf Customers. Large turf customers such as parks and golf courses that have multiple irrigation system stations can deviate from prescribed non-watering days if their systems include weather-based irrigation controllers, and each irrigation station is limited to the number of days prescribed in this Article.

SEC. 121.11. SEVERABILITY.

If any Section, subsection, clause or phrase in this Article or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of the Article or the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Article and each Section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more Sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.

Sec. 2. URGENCY CLAUSE.

The Council of the City of Los Angeles hereby finds and declares that there exists within this City a potential water shortage and the likelihood of a serious water shortage in the immediate future and that as a result there is an urgent necessity to take legislative action through the exercise of the police power to protect the public peace, health and safety of this City from a public disaster or calamity. Therefore, this Ordinance shall take effect immediately upon publication.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of AUG 0 8 2008.

KAREN E. KALFAYAN, City Clerk


By  Deputy

Approved AUG 1 4 2008

 Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By  for
JULIE RILEY
Deputy City Attorney

Date 8/4/08

File No. 08-1557