

ORDINANCE NO. 2907

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PRESCRIBING WATER CONSERVATION RULES AND REGULATIONS, AMENDING CHAPTER 8A (EMERGENCY WATER CONSERVATION PLAN) OF THE ONTARIO MUNICIPAL CODE

WHEREAS, California Constitution Article X, Section 2 and California Water Code Section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code Section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code Section 375, the City of Ontario (the "City") is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the City; and

WHEREAS, on June 4, 2008, the Governor of the State proclaimed a condition of statewide drought and strongly encouraged local agencies to take aggressive, immediate action to reduce water consumption locally and regionally for the remainder of 2008 and prepare for potentially worsening conditions in 2009; and

WHEREAS, because of the prevailing conditions in the State, the current statewide drought, and the declared policy of the State, the City hereby finds and determines that it is necessary and appropriate for the City to adopt, implement, and enforce a water conservation program to reduce the quantity of water used by consumers within the City to ensure that there is sufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, pursuant to California Water Code Section 350 the City Council is authorized to declare a water shortage emergency to prevail within its jurisdiction when it finds and determines that the City will not be able to or cannot satisfy the ordinary demands and requirements of water consumers without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, and fire protection, and as more fully set forth in this Chapter; and

WHEREAS, in the event the City determines that it is necessary to declare that a water shortage emergency exists, the City will be authorized pursuant to this Chapter to implement certain drought response measures and a water conservation and regulatory program to regulate water consumption activities within the City and ensure that the water delivered in the City is put to beneficial use for the greatest public benefit, with particular regard to domestic use, including human consumption, sanitation, and fire protection, and that the waste or unreasonable use of water is prevented; and

WHEREAS, the City is authorized to prescribe and define by ordinance restrictions, prohibitions, and exclusions for the use of water during a threatened or existing water shortage and adopt and enforce a water conservation and regulatory program to: (i) prohibit the wastage of City water or the use of City water during such period; (ii) prohibit use of water during such periods for specific uses which the City may from time to time find nonessential; and (iii) reduce and restrict the quantity of water used by those persons within the City for the purpose of conserving the water supplies of the City; and

WHEREAS, the City hereby finds and determines that pursuant to the provisions of Title 4, Chapter 8A of the City of Ontario Municipal Code, as hereby amended, the City shall: (i) implement water conservation and drought response measures; (ii) regulate the water consumption activities of persons within the City for the purposes of conserving and protecting the City's water supplies, reducing the quantity of water consumed, and deterring and preventing the waste or unreasonable use or unreasonable method of use of valuable water resources; and (iii) establish and collect regulatory fees and impose fines and penalties as set forth herein to accomplish these purposes and recover the costs of the City's water conservation and regulatory program; and

WHEREAS, the City Council hereby finds and determines that it is desirable to codify the rules and regulations governing its actions, and the actions of persons using and consuming water within the City, particularly during declared water shortages and water shortage emergencies, to protect the general welfare and the City's water supplies, and to reduce water consumption in accordance with the declared policies and laws of the State.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City hereby finds and determines that the above recitals are true and correct and incorporated herein.

SECTION 2. Chapter 8A of the Ontario Municipal Code is hereby amended in its entirety to read as follows:

CHAPTER 8A: WATER CONSERVATION PLAN

Section 6-8.20. Scope and Title. This Chapter shall be known as "The Water Conservation Plan of the City of Ontario."

Section 6-8.21. Statement of Policy and Declaration of Purpose.

(a) Because of the water supply conditions prevailing in the City and/or the area from which the City obtains a portion of its supply, the general welfare requires that the water resources available to the City of Ontario 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 that the conservation of such water be practiced with a view to that reasonable and beneficial use thereof in the interest of the people of the City.

(b) The purpose of this Chapter is to minimize the potential for water shortage through the practice of water conservation, and to minimize the effect of a shortage of water supplies on the water customers of the City. It is furthermore the intent of this Chapter to adopt provisions that will significantly reduce the inefficient consumption of water, thereby extending the available water resources necessary for the domestic, sanitation, and fire protection of the community to the greatest extent possible.

(c) This Chapter shall be applicable to all water customers. For the purposes of this Chapter, any person, business, corporation, or association to whom the city supplies water shall be considered a water customer.

Section 6-8.22. Authorization.

(a) The City Council may declare a water shortage based on a determination by Metropolitan Water District or the Inland Empire Utilities Agency, or based upon any interruption in water supply or delivery that the City Council determines in its sole discretion necessitates water conservation pursuant to this Chapter.

(b) In the event of an unplanned interruption of water supply causing a water shortage, the City Manager or his/her designee is authorized to restrict water use and apportion the available supply of water among its Customers in the most equitable manner possible to continue service fairly and without discrimination, except that preference shall be given to such service as is essential to the public interest and to the preservation of life and health.

(c) A notice of a water shortage shall be published in a daily newspaper of general circulation within the City. Any restrictions on the use of water shall become effective immediately upon such publication.

Section 6-8.23. General prohibitions.

(a) The following are prohibited in new connections:

- (1) Non-recycling decorative fountains;
- (2) Single-pass cooling systems; and

(3) Conveyor and in-bay vehicle wash and commercial laundry systems which do not reuse water.

(b) No water customer of the City shall make, cause, use, or permit the use of water from the City in a manner contrary to any provision of this Chapter or in an amount in excess of the use permitted by any restriction provisions then in effect pursuant to the provisions of this Chapter.

Section 6-8.24. Exceptions.

(a) The prohibited uses of water and water use restrictions provided within this Chapter are not applicable for the use of recycled water or the use of potable water necessary to public health and safety or for essential government services such as police, fire and other similar services.

(b) Nothing contained within this Chapter shall be construed to require the city to curtail the supply of water necessary for the health, safety, and welfare of any customer.

Section 6-8.25. Voluntary Conservation.

(a) Water customers are encouraged to voluntarily limit the amount of water used to the amount absolutely necessary for health, business, and irrigation. The following elements of conservation apply at all times on a voluntary basis:

(1) Avoid hose washing of sidewalks, walkways, driveways, parking areas or other paved surfaces, except as required for sanitary purposes.

(2) Wash motor vehicles, trailers, boats and other types of mobile equipment using a hand-held bucket or a hose equipped with a positive shutoff nozzle for quick rinses, or at the immediate premises of a commercial car wash or with recycled wastewater for approved uses.

(3) Avoid using water to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures unless such water is part of a recycling system.

(4) Encourage restaurants, hotels, cafés, cafeterias or other public places where food is sold, served or offered for sale, to serve drinking water only to those customers expressly requesting water.

(5) Promptly repair all leaks from indoor and outdoor plumbing fixtures.

(6) Avoid watering lawn, landscape or other turf area more often than every other day and during the hours between 6:00 a.m. and 6:00 p.m.

(7) Avoid causing or allowing the water to run off landscape areas into adjoining streets, sidewalks or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

Section 6-8.26. Stage 1 Water Shortage—Water Supply Reduced by up to Ten Percent (10%).

(a) The following restrictions on the use of potable water shall be applicable when the City Council determines that the City's water conservation goals are not being met by voluntary water conservation measures, or that the City's water supplies are likely to be reduced by up to Ten Percent (10%).

(1) There shall be no hose washing of sidewalks, walkways, driveways, parking areas or other paved surfaces, except as required for sanitary purposes.

(2) Washing of motor vehicles, trailers, boats and other types of mobile equipment shall be done only with a hand-held bucket or a hose equipped with a positive shutoff nozzle for quick rinses, except that washing may be done at the immediate premises of a commercial car wash or with reclaimed wastewater.

(3) No water shall be used to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures unless such water is part of a recycling system.

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

(5) All water customers of the City shall promptly repair all leaks from indoor and outdoor plumbing fixtures. Such leak shall be repaired in a timely manner after notification by the city, but in no case after notification in excess of seventy-two (72) hours for the first violation and then every seventy-two (72) hours thereafter for the second and third violations.

(6) No person shall sprinkle, water, or irrigate any shrubbery, trees, lawns, grass, groundcovers, plants, vines, gardens, vegetables, flowers, or any other landscaped or vegetated areas between the hours of 9:00 a.m. and 4:00 p.m. In any event, such watering shall not be in excess of needs nor be of a manner that allows water to flow onto streets. The above mentioned plants may be watered by a hand-held hose equipped with a shut-off nozzle at any time of the day. This provision shall not apply to commercial nurseries, golf courses and other water- dependent industries.

(7) No water customer of the City shall cause or allow the water to run off landscape areas into adjoining streets, sidewalks or other paved areas due to incorrectly directed or maintained sprinkler or excessive watering.

(8) The use of water from fire hydrants shall be limited to fire fighting and related activities necessary to maintain the public health, safety, and welfare. An exception may be made for construction use through a proper city-designated meter. The use of potable water for construction activities shall be restricted in areas where recycled water is available for such use.

Section 6-8.27. Stage 2 Water Shortage—Water Supply Reduced by Ten Percent (10%) to Twenty Percent (20%).

(a) The following restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than Ten Percent (10%) but less than Twenty Percent (20%) in its water supplies.

(1) All prohibitions and restrictions in Section 6-8.26 shall be in effect provided that more restrictive measures noted in this Section shall take precedence.

(2) Commercial nurseries, golf courses, and other water dependent industries shall be prohibited from watering lawn, landscape, or other turf areas more than every other day. Irrigation shall occur between the hours of 6:00 p.m. and 6:00 a.m. only.

(3) All water customers other than commercial nurseries, golf courses, and other water dependent industries shall be limited in the use of outdoor watering for sprinkling, watering, or irrigating any shrubbery, trees, lawns, grass, groundcovers, plants, vines, gardens, vegetables, flowers, or any other landscaped or vegetated areas to a two day per week schedule between the hours of 4:00 p.m. and 9:00 a.m. based on street address.

(i) All locations ending in an odd number shall have outdoor water scheduled on Mondays and Thursdays.

(ii) All locations ending in an even number shall have outdoor water scheduled on Wednesdays and Saturdays.

(iii) There shall be no outdoor watering on Tuesdays, Fridays, or Sundays.

(iv) The use of a hand-held hose with shut-off valve shall be permitted at any time.

(v) The replenishment of swimming pools shall be limited to the same days as other outdoor watering.

(4) Filling or refilling empty swimming pools shall not occur without permission from the City Manager or his/her designee.

Section 6-8.28. Stage 3 Water Shortage—Water Supply Reduced by more than Twenty Percent (20%).

(a) The following restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than Twenty Percent (20%) in its water supplies.

(b) All the prohibitions and restrictions in Section 6-8.27 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(c) Commercial nurseries, golf courses and other water dependent industries shall be prohibited from watering lawn, landscaping and other turf areas more often than every third day. Irrigation shall occur between the hours of 6:00 p.m. and 6:00 a.m. only. There shall be no restriction on watering utilizing recycled water.

(d) The use of water from fire hydrants shall be limited to fire fighting and related activities and other uses of water for municipal purposes shall be limited to activities necessary to maintain the public health, safety and welfare. The use of potable water for construction activities shall be prohibited.

Section 6-8.29. Stage Four Water Shortage—Emergency Interruption in Water Supply.

(a) The following restrictions on the use of potable water shall be applicable during an emergency water shortage which may be declared in the event of a major earthquake, large-scale fire, or other so called “Act of God” which could have serious impacts on the city’s total available water supply.

(1) All the prohibitions and restrictions in Section 6-8.28 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) There shall be no use of outdoor water at any time except the minimal amount by hand-held hose equipped with a shut-off nozzle.

(3) Commercial nurseries, golf courses, and other water dependent industries shall be prohibited from the use of outside water except by a hand-held hose equipped with a shut-off nozzle.

(4) All nonessential uses of water shall be prohibited including the filling, cycling, filtering, or refilling swimming pools, spas, Jacuzzis, fountains or other like devices.

Section 6-8.30. Relief from Compliance.

(a) A water customer of the City may file a written application for relief in whole or in part, from the water use restriction provisions of this Chapter. The City Manager or his/her designee shall review the request for a variance and take such steps as he or she deems reasonable to resolve the application for relief. The decision of the City Manager shall be final.

(b) A relief may be granted if the water customer shows that he or she has achieved the maximum practical reduction in water consumption other than in the specific areas in which relief is being sought. No relief shall be granted to any water customer who, when requested by the City Manager, fails to provide any information necessary for resolution of the customer's application for relief.

Section 6-8.31. Failure to Comply.

(a) Violations of the provisions of this Chapter:

(1) First violation. For a first violation, the City shall issue a written warning to the water customer.

(2) Second violation. For a second violation, the City shall impose a surcharge in an amount of One Hundred Dollars (\$100.00) added to the water customer's water bill.

(3) Third violation. For a third violation, the City shall impose a surcharge in an amount of Two Hundred Dollars (\$200.00) added to the water customer's water bill.

(4) Subsequent Violations. For the fourth and any subsequent violation during, the City shall impose a surcharge in an amount of Five Hundred Dollars (\$500.00) added to the water customer's water bill. In addition to the surcharge, the City may also install a flow restricting device on the service of the customer at the premises at which the violation occurred for a period of not less than forty-eight (48) hours. The City shall charge the water customer the reasonable costs incurred for installing and for removing the flow-restricting devices and for restoration of normal service. The charge shall be paid before normal service can be restored.

(b) The City shall give notice of violation to the water customer committing the violation as follows:

(1) First notice of violation shall be given in writing by regular mail to the address at which the water customer is normally billed.

(2) Notice of second or subsequent violations shall be given in writing by certified mail to the address at which the water customer is normally billed.

Section 6-8.32. Hearing Regarding Violations.

(a) Any water customer receiving notice of a violation of Sections 6-8.23, 6-8.26, 6-8.27, 6-8.28, or 6-8.29, which includes the imposition of a surcharge shall have a right to a hearing by the City Manager or his/her designee within fifteen (15) days of mailing or other delivery of the notice of violation.

(b) The water customer's timely written request for a hearing shall automatically stay installation of flow-restricting device on the customer's premises until after the City Manager or his/her designee renders his or her decision.

(c) The water customer's timely written request for a hearing shall not stay the imposition of a surcharge unless within the time period to request a hearing, the water customer deposits with the City money in the amount of any unpaid surcharge due. If it is determined that the surcharge was wrongly assessed, the City will refund any money deposited to the water customer.

(d) The decision of the City Manager or his/her designee shall be final except for judicial review.

SECTION 3. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto, and pursuant to California Water Code Section 376, this Ordinance shall be effective immediately upon its adoption. Within ten (10) days after its adoption, the City Clerk shall cause this Ordinance to be published once pursuant to California Government Code Section 6061 and California Water Code Section 376 in full in a newspaper of general circulation which is printed, published, and circulated in the city. If there is no such newspaper, the Ordinance shall be posted with the City after its adoption in three public places.

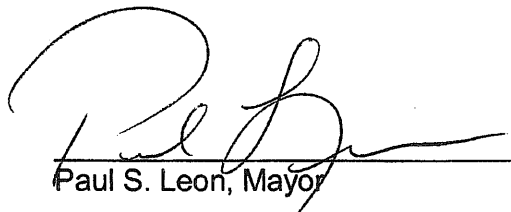
APPROVED AND ADOPTED this 16th day of June, 2009, by the following votes:

AYES: Mayor P. Leon, Council Members J. Bowman, A. Wapner, S. Mautz and D. Dorst-Porada.

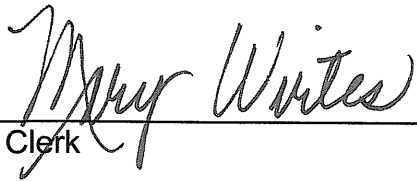
NOES: None.

ABSTAIN: None.

ABSENT: None.



Paul S. Leon, Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney