

ORDINANCE NO. 698

AN ORDINANCE OF THE CITY COUNCIL ESTABLISHING THE CITY OF PORT HUENEME WATER CONSERVATION AND WATER SUPPLY SHORTAGE PROGRAM AND REGULATIONS

The City Council of the City of Port Hueneme does ordain as follows:

SECTION 1. Title

This ordinance will be known as the City of Port Hueneme Water Conservation and Water Supply Shortage Program and Regulations.

SECTION 2. Findings

- A. A reliable minimum supply of potable water is essential to and benefits the public health, safety and welfare of the people of Port Hueneme.
- B. The City and its service area is located in Southern California, a semi-arid region that is largely dependent upon imported water supplies to augment limited local ground water supplies. A growing population, climate change, environmental concerns, and other factors in other parts of the State and western United States, make the region highly susceptible to water supply reliability issues.
- C. Careful water management that includes active water conservation measures not only in times of drought, but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
- D. Article X, Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.
- E. Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
- F. California Water Code section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- G. The adoption and enforcement of a water conservation and supply shortage program is necessary to manage the City of Port Hueneme's potable water supply in the short and long-term and to avoid or minimize the effects of drought and shortage within the City of Port

Hueneme. Such program is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

SECTION 3. Declaration of Purpose and Intent

- A. The purpose of this ordinance is to establish a water conservation and supply shortage program that will reduce water consumption within the City of Port Hueneme through conservation, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the City of Port Hueneme to avoid and minimize the effect and hardship of water shortage to the greatest extent possible.
- B. This ordinance establishes permanent water conservation standards intended to alter behavior related to water use efficiency at all times and further establishes three levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.

SECTION 4. Definitions

- A. The following words and phrases whenever used in this ordinance have the meaning defined in this section:
 - 1. **“Person”** means any natural person or persons, corporation, public or private entity, governmental agency or institution, including all agencies and departments of City of Port Hueneme, or any other user of water provided by the City of Port Hueneme.
 - 2. **“Landscape irrigation system”** means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.
 - 3. **“Large landscape areas”** means a lawn, landscape, or other vegetated area, or combination thereof, equal to more than one (1) acre of irrigable land.
 - 4. **“Single pass cooling systems”** means equipment where water is circulated only once to cool equipment before being disposed.
 - 5. **“Potable water”** means water which is suitable for drinking.
 - 6. **“Recycled water”** means the reclamation and reuse of non-potable water for beneficial use as defined in Title 22 of the California Code of Regulations.

7. **“Billing unit”** means the unit of water (measured in hundred cubic feet (HCF)) used to apply water rates for purposes of calculating water charges for a person’s water usage. A billing unit equals one hundred (100) cubic feet or seven hundred forty-eight (748) gallons of water.

SECTION 5. Application

- A. The provisions of this ordinance apply to any person in the use of any potable water provided by the City of Port Hueneme.
- B. The provisions of this ordinance do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services.
- C. The provisions of this ordinance chapter do not apply to the use of recycled water, with the exception of Section VI (A).
- D. The provisions of this ordinance do not apply to the use of water by commercial nurseries and commercial growers to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale.
- E. This ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.

SECTION 6. Permanent Water Conservation Requirements – Prohibition Against Waste

The following water conservation requirements are effective at all times and are permanent. Violations of this section will be considered waste and an unreasonable use of water.

- A. **Limits on Watering Hours:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 9:00 a.m. and 5:00 p.m. Pacific Standard Time on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
- B. **Limit on Watering Duration:** Watering or irrigating of lawn, landscape or other vegetated area with potable water using a

landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour and weather based controllers or stream rotor sprinklers that meet a 70% efficiency standard.

- C. **No Excessive Water Flow or Runoff:** Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
- D. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.
- E. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than seven (7) days of receiving notice from the City of Port Hueneme, is prohibited.
- F. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
- G. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.
- H. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.
- I. **Commercial Lodging Establishments Must Provide Guests Option**

to Decline Daily Linen Services: Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

- J. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
- K. **No Installation of Non-re-circulating in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
- L. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.
- M. **Commercial Car Wash Systems:** All commercial conveyor car wash systems must have installed operational re-circulating water systems, or must have secured a waiver of this requirement from the City of Port Hueneme.

SECTION 7. Level 1 Water Supply Shortage

- A. A Level 1 Water Supply Shortage exists when the City of Port Hueneme determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of Port Hueneme of a Level 1 Water Supply Shortage condition, the City of Port Hueneme will implement the mandatory Level 1 conservation measures identified in this section.
- B. **Additional Water Conservation Measures:** In addition to the prohibited uses of water identified in Section VI, the following water conservation requirements apply during a declared Level 1 Water Supply Shortage:
 - 1. **Limits on Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to three days per week on a schedule established and posted by the City of Port Hueneme. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week

on a schedule established and posted by the City of Port Hueneme. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within seventy-two (72) hours of notification by the City of Port Hueneme unless other arrangements are made with the City of Port Hueneme's Water Superintendent.

SECTION 8. Level 2 Water Supply Shortage

- A. A Level 2 Water Supply Shortage exists when the City of Port Hueneme determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of Port Hueneme of a Level 2 Water Supply Shortage condition, the City of Port Hueneme will implement the mandatory Level 2 conservation measures identified in this section.
- B. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section VI and VII, the following additional water conservation requirements apply during a declared Level 2 Water Supply Shortage:
 1. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to two days per week on a schedule established and posted by the City of Port Hueneme. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one day per week on a schedule established and posted by the City of Port Hueneme. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or

repairing an irrigation system.

2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within forty-eight (48) hours of notification by the City of Port Hueneme unless other arrangements are made with the City of Port Hueneme's Water Superintendent.
3. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this ordinance.
4. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including but not limited to, any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, by high pressure/low volume wash systems, or at a commercial car washing facility that utilizes a re-circulating water system to capture or reuse water.
5. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than one foot and any initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

SECTION 9. Level 3 Water Supply Shortage – Emergency Condition

- A. A Level 3 Water Supply Shortage condition is also referred to as an "Emergency" condition. A Level 3 condition exists when the City of Port Hueneme declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 Water Supply Shortage condition, the City of Port Hueneme will implement the mandatory Level 3 conservation measures identified in this section.
- B. **Additional Conservation Measures:** In addition to the prohibited uses of water identified in Section VI, VII, and VIII, the following water conservation requirements apply during a declared Level 3 Water Supply Shortage Emergency:
 1. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use, unless the City of Port Hueneme has determined that recycled

water is available and may be applied to the use:

- i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;
 - ii. Maintenance of existing landscape necessary for fire protection; as determined by a local fire official.
 - iii. Maintenance of existing landscape for soil erosion control; as determined by the City Engineer.
 - iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species; as determined by a certified biologist.
 - v. Actively irrigated environmental mitigation projects; as determined by a public health official.
2. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within twenty four (24) hours of notification by the City of Port Hueneme unless other arrangements are made with the City of Port Hueneme's Water Superintendent.
 3. **Limits on Building Permits:** The City of Port Hueneme will limit or withhold the issuance of building permits which require new or expanded water service, except to protect the public health, safety and welfare, or in cases which meet the City of Port Hueneme's adopted conservation offset requirements.
 4. **Discontinue Service:** The City of Port Hueneme, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this section
 5. **No New Annexations:** Upon the declaration of a Level 3 Water Supply Shortage condition, the City of Port Hueneme will suspend consideration of annexations to its service area. This subsection does not apply to boundary corrections and annexations that will not result in any increased use of water.

SECTION 10. Procedures for Determination / Notification of Water Supply Shortage

- A. **Declaration and Notification of Water Supply Shortage:** The existence of Level 1, Level 2 or Level 3 Water Supply Shortage

conditions may be declared by resolution of the City of Port Hueneme adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements applicable to Level 1, Level 2 or Level 3 conditions will take effect on the tenth day after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City of Port Hueneme must publish a copy of the resolution in a newspaper used for publication of official notices. If the City of Port Hueneme activates a water allocation process, it must provide notice of the activation by including it in the regular billing statement or by any other mailing to the address to which the City of Port Hueneme customarily mails the billing statement for fees or charges for on-going water service. A water allocation will be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

SECTION 11. Hardship Waiver

- A. **Undue and Disproportionate Hardship:** If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this section.
- B. **Written Finding:** The waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.
1. **Application:** Application for a waiver must be on a form prescribed by the City of Port Hueneme and accompanied by a non-refundable processing fee in an amount set by City of Port Hueneme resolution.
 2. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
 3. **Required Findings for Waiver:** An application for a waiver will be denied unless the City's Public Works Director finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City of Port Hueneme or its Agent, all of the following:

- i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
 - ii. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;
 - iii. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City of Port Hueneme to effectuate the purpose of this chapter and will not be detrimental to the public interest; and
 - iv. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.
3. **Approval Authority:** The City's Director of Public Works must act upon any completed application no later than ten (10) days after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver must be promptly notified in writing of any action taken. Unless specified otherwise at the time a waiver is approved, the waiver will apply to the subject property during the period of the mandatory water supply shortage condition. The decision of the City's Director of Public Works will be final.

SECTION 12. Penalties and Violations

- A. **Misdemeanor:** Any violation of this chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars (\$1,000), or by both.
- B. **Penalties:** Penalties for failure to comply with any provisions of the ordinance are as follows:
1. **First Violation:** The City of Port Hueneme will issue a written warning and deliver a copy of this ordinance by mail.
 2. **Second Violation:** A second violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed one hundred dollars (\$100).
 3. **Third Violation:** A third violation within the preceding twelve (12) calendar months is punishable by a fine not to exceed two hundred

and fifty dollars (\$250).

4. **Fourth and Subsequent Violations:** A fourth and any subsequent violation is punishable by a fine not to exceed five hundred dollars (\$500).
 - i. **Water Flow Restrictor:** In addition to any fines, the City of Port Hueneme may install a water flow restrictor device of approximately one gallon per minute capacity for services up to one and one-half inch size and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor for a minimum of forty eight (48) hours.
 5. **Discontinuing Service:** In addition to any fines and the installation of a water flow restrictor, the City of Port Hueneme may disconnect a customer's water service for willful violations of mandatory restrictions in this chapter
- C. **Cost of Flow Restrictor and Disconnecting Service:** A person or entity that violates this ordinance is responsible for payment of the City of Port Hueneme's charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the City of Port Hueneme's schedule of charges then in effect. The charge for installing and/or removing any flow restricting device must be paid to the City of Port Hueneme before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water service.
- D. **Separate Offenses:** Each day that a violation of this ordinance occurs is a separate offense.
- E. **Notice and Hearing:**
1. The City of Port Hueneme will issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the City of Port Hueneme no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not appealed in writing within 30 days will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the City of Port Hueneme will mail written notice of the hearing date to the customer at least ten (10) days before the date of the hearing.
 2. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the City of Port Hueneme may take appropriate steps to prevent the unauthorized use of water as appropriate to the

nature and extent of the violations and the current declared water Level condition.

SECTION 13. Severability

If any section, subsection, sentence, clause or phrase in this chapter is for any reason held invalid, the validity of the remainder of the chapter will not be affected. The City of Port Hueneme hereby declares it would have passed this chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

PASSED, APPROVED AND ADOPTED this 1st day of March, 2010.

NORMAN E. GRIFFAW
MAYOR

ATTEST:

MICHELLE ASCENCION
DEPUTY CITY CLERK

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

MARK D. HENSLEY
CITY ATTORNEY

DAVID J. NORMAN
CITY MANAGER