

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SANTA ANA REPEALING AND
REENACTING IN ITS ENTIRETY ARTICLE VI OF
CHAPTER 39 OF THE SANTA ANA MUNICIPAL
CODE RELATING TO WATER CONSERVATION

WHEREAS, California Water Code Section 375 et seq. authorizes the adoption of a water conservation ordinance after notice and a public hearing; and

WHEREAS, in order to conserve water supplies, California Water Code Section 375 et seq. permits public entities that supply water at retail to: (1) adopt water conservation programs; and (2) enforce such programs. To minimize or avoid any future shortage, the City Council therefore establishes this comprehensive water conservation program pursuant to California Water Code Section 375 et seq. and the City's police power; and

WHEREAS, a reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of the southern California region; and

WHEREAS, the protection, conservation, and management of local and imported water supplies are one of the main functions of the City of Santa Ana as a domestic water purveyor. The City has the power to perform all acts necessary to carry out fully the provision of California Water Code Section 375, to establish rules and regulations for the distribution of use of water, and to undertake a water conservation program to promote efficient water use and reduce water waste; and

WHEREAS, wasteful water use practices constitute a potential threat to, and an unacceptable diminution of, the City's water supplies. The prevention of water waste is an economically and environmentally feasible way to protect, conserve, and prevent unacceptable diminution of the City's water supplies; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, California Water Code Section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies; and

WHEREAS, contamination, drought, or failure of the water system infrastructure may lead to a potable water shortage emergency in the City's water supplies; and

WHEREAS, California, including Orange County, experienced significant dry year conditions in 2012-2017, which led local water agencies to declare water shortage conditions that triggered drought actions; and

WHEREAS, the City has experienced a direct impact on the reliability of available water supplies. The City's reliability was increased through customer curtailment due to demand management measures implemented with the passing of City Ordinance No. NS-2877 in 2015. These actions are specified in the adopted 2020 Urban Water Management Plan and 2020 Water Shortage Contingency Plan, based on levels of drought severity, and provide the legal authority for implementation and enforcement; and

WHEREAS, following the end of the drought, the California Legislature modified the Urban Water Management Planning Act in 2018 to include additional water shortage planning requirements. California Water Code has significant updates, specifically to Water Code Section 10632.1 and Section 10632.5 that now mandate new elements to Urban Water Management and Water Shortage Contingency Plans, including an annual drought risk assessment, State Water Shortage Levels and statewide water use prohibitions; and

WHEREAS, as of July 1, 2021, the City is required to prepare an Annual Water Supply and Demand Assessment and Drought Risk Assessment as part of the Urban Water Management Plan for submission to the California Department of Water Resources. Annually, by July 1st of each year, beginning in 2022, the City is required to monitor, report and if declared a drought emergency, then notify the Department of Water Resources, in order to comply with the State's Water Code 10632.1 reporting requirements; and

WHEREAS, the City adopted a 2020 Urban Water Management Plan that includes water conservation as a necessary and effective component of providing a reliable supply of water to meet the needs of its water customers. The City's Urban Water Management Plan also includes the City's 2020 Water Shortage Contingency Plan; and

WHEREAS, the City's Water Shortage Contingency Plan establishes standards and procedures to enable implementation and enforcement of local water shortage contingency measures. These measures align with the State of California, Water Code Section 353 which specifies that "when the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire prevention"; and

WHEREAS, the City currently has a water conservation ordinance set forth in Article VI of Chapter 39 of the Santa Ana Municipal Code; and

WHEREAS, the City wishes to update this ordinance to be consistent with the new requirements of the updated California Water Code Section 10632 and the City's updated 2020 Urban Water Management Plan and 2020 Water Shortage Contingency Plan; and

WHEREAS, to effectively update Article VI of Chapter 39, it is necessary that Article VI of Chapter 39 be repealed and reenacted.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA ANA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 39 of Article VI of the Santa Ana Municipal Code is hereby repealed in its entirety.

Section 2. Chapter 39 of Article VI of the Santa Ana Municipal Code is hereby reenacted in its entirety to read as follows:

ARTICLE VI. WATER CONSERVATION

DIVISION 1. GENERALLY

Sec. 39-84. – Purpose.

This article establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and prevent unreasonable method of use of water within the City of Santa Ana in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.

Sec. 39-85 – 39-87. – Reserved.

DIVISION 2. – DEFINITIONS

Sec. 39-88. – Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

“City” shall mean the City of Santa Ana, Orange County, California.

“City Manager” means the chief administrative officer of the City of Santa Ana appointed by the City Council.

“Cost” means the actual cost to the Utility, including all labor, material, supplies, equipment and miscellaneous items, together with any applicable indirect and general charges, plus the general administrative overhead, in accordance with the accounting practices of the Utility.

“Customer” means water customer or water user.

“Executive Director of Public Works” means the chief administrative officer of the Public Works Agency of the City of Santa Ana, or his or her designee.

“Flow restricting device” or “flow restrictor” means a fitting inserted into the service connection to reduce flow capacity.

“Grower” refers to those engaged in the growing plant material or raising animals.

“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.

“New construction” means, for the purposes of this article, a new building with a landscape or other new landscape such as a park, playground, or greenbelt without an associated building.

“Permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscape.

“Person” shall mean any natural person, corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of the above.

“Potable Water” means water that is suitable for drinking.

“Recycled water” or “reclaimed water” means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

“Service connection” means the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter.

“Single Pass Cooling Systems” means equipment where water is circulated only once to cool equipment before being disposed.

“Valve” means a device used to control the flow of water.

“Water Allocation” shall mean the amount of water a customer may use in a billing cycle pursuant to this article.

“Water customer” means the person in whose name service is rendered as evidenced by the signature on the application, contract or agreement for that service, or in the absence of a signed instrument, by the receipt and payment of bills regularly issued in his/her name, regardless of the identity of the actual user of the service.

“Water feature” or “feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the water budget calculation.

“Water Shortage Emergency” shall mean a condition existing within the City of Santa Ana in which the ordinary water demands and requirements of persons within the City cannot be satisfied without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. A water shortage emergency includes both an immediate emergency, in which the City is unable to meet current water needs of persons within its jurisdiction, as well as a threatened water shortage, in which the City determines that its supply cannot meet an increased future demand.

“Water user” means any user of water including a water customer.

DIVISION 3. – RESERVED.

Sec. 39-89 – 39-95. – Reserved.

DIVISION 4. – REGULATIONS GOVERNING WATER CONSERVATION PHASES

Sec. 39-96. – Applications.

- (a) The provisions of this article apply to any Customer, Person, and property using water provided by and/or used within the City.
- (b) The provisions of this article 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 article do not apply to the use of Recycled Water, with the exception of Section 39-99, as Recycled Water is considered a valuable source of water.
- (d) The provisions of this article 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, with the exception of Section 39-99.
- (e) The provisions of this article do not apply to the use of water from private wells, with the exception of Section 39-99.
- (f) This article 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.

Sec. 39-97. – Procedures for Determination of Water Supply Shortage and Level Implementation.

- (a) Under Water Code Section 10632.1, the City is required to submit a water shortage assessment “report” to the California Department of Water Resources by July 1 of each year.
- (b) The City will follow a written decision-making process defined in the Water Shortage Contingency Plan (WSCP) to assess water supply reliability on an annual basis.
- (c) The Executive Director of Public Works will determine if a water shortage exists based on the water shortage criteria and levels defined in the WSCP.
- (d) In the event a water shortage is triggered according to the procedures and conditions defined in the adopted WSCP, the City Council shall make findings of water supply shortage and declare the applicable water conservation phase by resolution. The implemented phase of the water supply shortage shall be in effect until the City Council declares that the water supply shortage has ended or until another phase has been implemented.
- (e) The public will be informed of the shortage according to the Procedures and Protocols for Communication identified in Section 39-98 of this Ordinance.

- (f) Subject to subsequent ratification by the City Council, when the Executive Director of Public Works determines that a sudden event has, or threatens to, significantly diminish the reliability or quality of the City's water supply, the Executive Director of Public Works may declare a catastrophic water supply shortage and impose emergency water allocation or conservation actions as deemed necessary, in the Executive Director of Public Works' professional judgment, to protect the reliability and quality of the City's water supply, until the emergency passes or the City takes other action.

Sec. 39-98. – Procedures and Protocols for Communication.

Upon declaration of a Water Shortage, the City will inform all relevant stakeholders, such as Customers, the public, interested parties, and local, regional, and state governments, of the effective date of the water shortage response actions associated with the relevant level according to the communication procedures identified in the City's WSCP, including:

- (a) Any current or predicted shortages as determined by the annual water supply and demand assessment.
- (b) Any shortage response actions triggered or anticipated to be triggered by the annual water supply and demand assessment.
- (c) Any other relevant communications.

Sec. 39-99. – Permanent Water Conservation Requirements – Prohibition Against Water 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. Noncompliance with restrictions on water waste shall be subject to an administrative citation.

- (a) Watering of a lawn, landscape or other vegetated area between the hours of 8:00 a.m. and 6:00 p.m. is prohibited. Hand-held water cans, buckets, or similar containers reasonably used to convey water for irrigation purposes are not subject to these time restrictions. Similarly, a hand-held hose equipped with a fully functioning, positive self-closing water shut-off nozzle, may be used during the otherwise restricted period. If necessary, and for very short periods of time, for the express purpose of adjusting or repairing a landscape irrigation system, one may operate a landscape irrigation system during the otherwise restricted period.
- (b) Washing down sidewalks, walkways, driveways, parking areas, or other hard or paved surfaces is prohibited, except to alleviate safety or sanitary hazards using a handheld container, hose with an automatic shut-off device, or a low-volume high-pressure cleaning machine that recycles used water.

- (c) Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff from the property onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
- (d) The use of water to irrigate outdoor landscapes during or within forty-eight (48) hours after measurable rainfall is prohibited.
- (e) Using water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, is prohibited, except by use of a hand-held bucket or hand-held hose equipped with a positive self-closing device or water shut-off nozzle. This subsection does not apply to any commercial car washing facility.
- (f) The use of water to clean, fill, or maintain levels in decorative fountains, ponds, lakes, or other similar aesthetic structures, unless such water is part of a re-circulating system, is prohibited. The only exceptions shall be a water feature currently listed in the National Register of Historic Places, where water use is deemed necessary for the integrity of the feature, or a water feature that has been issued a waiver from the City.
- (g) All leaks, breaks, or other malfunctions in the water user's plumbing, irrigation or distribution system must be repaired within seventy-two (72) hours, unless other arrangements are made with the City.
- (h) 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.
- (i) Hotels, motels and other commercial lodging establishments must provide customers the option to opt out of towels and linen laundering service. Commercial lodging establishments must prominently display notice of this option in each bathroom using simple and easily understood language.
- (j) Food preparation establishments such as restaurants or cafes are prohibited from using non-water efficient kitchen pre-rinse spray valves.
- (k) Installation of single pass cooling systems is prohibited in any new or remodeled buildings.
- (l) Commercial car wash system: Effective on January 1, 2012, 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.
- (m) Installation of non-recirculating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems unless a waiver from the City has been obtained.

- (n) Watering or irrigation with a device that is not continuously attended is limited to fifteen (15) minutes per day per valve. Low flow drip type systems, water efficient stream rotor systems, and sensor/weather-controlled systems are exempt.
- (o) Any new planting should be performed with drought tolerant plants, as listed in the Metropolitan Water District of Southern California's list of California friendly plants.
- (p) Irrigating ornamental turf on public street medians is prohibited.
- (q) Use a shutoff nozzle on hoses is required at all times.
- (r) Unauthorized use of hydrants is prohibited. Authorization for use must be obtained from the City.

Sec. 39-100. – Water Shortage Levels.

The City's Water Shortage Contingency Plan defines six water supply shortage levels corresponding to progressive ranges of up to 10, 20, 30, 40, and 50 percent shortages and a greater than 50 percent shortage.

The City Council by resolution shall require or impose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies, or to respond to local or regional water shortage conditions and emergencies, as defined in the City's Water Shortage Contingency Plan. Depending on the expected duration and severity of the shortage, these measures may include, but are not limited to, some or all of the water conservation management measures listed for each of the six (6) water supply shortage levels listed below and in the WSCP, which shall take effect upon declaration by the City Council. In an emergency, the Executive Director of Public Works may make the declaration, which will be ratified by the City Council at a subsequent meeting.

During each elevated water supply shortage level, the water conservation/demand management measures will include the Permanent Water Conservation Requirements and the water conservation management measures of the previous level(s). Each level is intended to be more restrictive than the previous level(s). The City may implement other prohibited water uses as determined by the City, after notice to Customers.

(a) Water Shortage Level 0

Water Shortage Level 0 exists during periods when the City anticipates no supply reductions. City's Permanent Water Conservation Requirements (Sec. 39-99) are in place at all times to prevent waste and unreasonable use of water.

(b) Water Shortage Level 1

Water Shortage Level 1 exists when the City determines, in its sole discretion, that due to drought or other water supply restrictions, a water supply shortage exists and a consumer demand reduction of up to 10% is necessary to make more efficient use of water and appropriately respond to existing water restrictions. In addition to the Permanent Water Conservation Requirements, the demand reduction actions provided in the most recent WSCP apply, including but not limited to:

- (1) Watering of a lawn, landscape or other turf areas between the hours of 6:00 a.m. and 6:00 p.m. is prohibited, except by use of hand-held device, hose equipped with an automatic shutoff device, or for adjusting or repairing an irrigation system for short periods of time.
- (2) All leaks, breaks, or other malfunctions in the water user's plumbing, irrigation or distribution system must be repaired within seventy-two (72) hours of notification by the City, unless other arrangements are made with the City.
- (3) All non-essential water use for public entities shall cease.

(c) Water Shortage Level 2

Water Shortage Level 2 exists when the City determines, in its sole discretion, that due to drought or other water supply restrictions, a water supply shortage exists and a consumer demand reduction of 11-20% is necessary to make more efficient use of water and appropriately respond to existing water restrictions. In addition to the above-mentioned requirements and Permanent Water Conservation Requirements, the demand reduction actions provided in the most recent WSCP apply, including but not limited to:

- (1) All leaks, breaks, or other malfunctions in the water user's plumbing, irrigation or distribution system must be repaired within forty-eight (48) hours of notification by the City, unless other arrangements are made with the City.
- (2) Irrigation shall be limited to two (2) days per week turf watering when using potable water. Plant containers, trees, shrubs and vegetable gardens may be watered additional days using only drip irrigation or hand watering.
- (3) Filling or re-filling ornamental lakes is prohibited. Ornamental lakes and ponds that sustain aquatic life of significant value and were actively managed prior to the shortage declaration are exempt.
- (4) Subject to applicable law, the City may impose drought rates and surcharges if deemed necessary.

- (5) The City may reduce potable water allocations in all categories to meet the available water supply.

(d) Water Shortage Level 3

Water Shortage Level 3 exists when the City determines, in its sole discretion, that due to drought or other water supply restrictions, a water supply shortage exists and a consumer demand reduction of 21-30% is necessary to make more efficient use of water and appropriately respond to existing water restrictions. In addition to the above-mentioned requirements and Permanent Water Conservation Requirements, the demand reduction actions provided in the most recent WSCP apply, including but not limited to:

- (1) Decorative water features that use potable water must be drained and kept dry.
- (2) Car washing is only permitted using a commercial car wash that recirculates water or by high-pressure/low-volume wash systems.
- (3) Any new construction will be required to submit a water use plan to the City that addresses the impacts to the existing water users and how they will be mitigated (such as dust control, etc.).
- (4) Except for landscapes watered with non-potable water, the installation of new landscaping is limited to drought tolerant trees, shrubs and groundcovers. Installation of new turf or hydroseed is prohibited. Customers may apply for a waiver to irrigate during an establishment period for the installation of new turf or hydroseed.
- (5) Turf irrigation shall be limited to 2 days per week when using potable water. Plant containers, trees, shrubs and vegetable gardens may be watered additional days using only drip irrigation or hand watering.

(e) Water Shortage Level 4

Water Shortage Level 4 exists when the City determines, in its sole discretion, that due to drought or other water supply restrictions, a water supply shortage exists and a consumer demand reduction of 31-40% is necessary to make more efficient use of water and appropriately respond to existing water restrictions. In addition to the above-mentioned requirements and Permanent Water Conservation Requirements, the demand reduction actions provided in the most recent WSCP apply, including but not limited to:

- (1) Irrigation shall be limited to one (1) day per week turf watering when using potable water. Plant containers, trees, shrubs and vegetable gardens may be watered additional days using only drip irrigation or hand watering.

- (2) Existing pools shall not be emptied and refilled using potable water, unless required for public health and safety purposes.
- (3) No new permits for pools will be issued.
- (4) No new landscape installations or renovations will be permitted.
- (5) Previous waivers for watering during an establishment period will be revoked.

(f) Water Shortage Level 5

Water Shortage Level 5 exists when the City determines, in its sole discretion, that due to drought or other water supply restrictions, a water supply shortage exists and a consumer demand reduction of 41-50% is necessary to make more efficient use of water and appropriately respond to existing water restrictions. In addition to the above-mentioned requirements and Permanent Water Conservation Requirements, the demand reduction actions provided in the most recent WSCP apply, including but not limited to:

- (1) All leaks, breaks, or other malfunctions in the water user's plumbing, irrigation or distribution system must be repaired within twenty-four (24) hours of notification by the City, unless other arrangements are made with the City.
- (2) All irrigation is prohibited.
- (3) Watering for agricultural or commercial nursery purposes is prohibited.
- (4) Watering of all golf course areas is prohibited.
- (5) Watering of parks, school grounds and recreation fields is prohibited, except for rare plant or animal species.
- (6) No new potable water service connections will be permitted.
- (7) Water use is only permitted for public health and safety purposes.

(g) Water Shortage Level 6

Water Shortage Level 6 exists when the City determines, in its sole discretion, that due to drought or other water supply restrictions, a water supply shortage exists and a consumer demand reduction of greater than 50% is necessary to make more efficient use of water and appropriately respond to existing water restrictions. In addition to the above-mentioned requirements and Permanent Water

Conservation Requirements, the demand reduction actions provided in the most recent WSCP apply, including but not limited to:

- (1) Water can only be used for public health and safety purposes. Customer rationing may be implemented.
- (2) Water usage for air conditioning is prohibited.
- (3) The City may shut off all non-essential water services.
- (4) Water for commercial manufacturing or processing purposes shall be reduced in volume by up to 50% or more if necessary for public health and safety purposes.
- (5) The City of Santa Ana may discontinue service to consumers who willfully violate any water conservation provisions.

Sec. 39-101. – Correlation Between City Water Supply Shortage Levels and California Department of Water Resources Water Supply Shortage Levels.

The City's water supply shortage levels are aligned with the State Water Supply Shortage Levels and therefore comply with Water Code Section 10632(a)(3) as may be updated from time to time.

Sec. 39-102. – Levels of Declared Water Supply Shortage.

The City Council is authorized to require or impose reductions in the use of water by resolution if such reductions are necessary to comply with Water Supply Shortage conditions as defined in the City's Water Shortage Contingency Plan.

Sec. 39-103. – Hardship Waiver.

- (a) Waiver: If, due to unique circumstances, a specific requirement of this article would result in undue hardship to a Person using water or to property upon which water is used, then the Person may apply for a waiver from the requirements as provided in this section. 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.
 - (1) Application for a Waiver. Application for a waiver must be on a form prescribed by the Executive Director of the Public Works Agency, or his or her designee.
 - (2) Supporting Documentation. The written application shall be accompanied by photographs, maps, drawings, or other pertinent information as applicable, including a written statement of the applicant.

(3) Required Findings for Waiver. Based on the information and supporting documents provided in the application, additional information provided as requested, and water use information for the property as shown by the records of the City, the Executive Director of the Public Works Agency, or designee, in making the waiver determination, will take into consideration the following:

- (A) That the waiver does not constitute a grant of special privilege inconsistent with the limitation upon other City water service Customers;
- (B) That because of special circumstances applicable to the property or its use, the strict application of this article would have a disproportionate impact on the property or use that exceeds the impacts to water service Customers generally;
- (C) 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 to effectuate the purpose of this article and will not be detrimental to the public interest;
- (D) 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; and
- (E) That no Person shall be given relief on appeal for hardship unless the water service Customer has installed water saving devices, as determined by the City, and made every reasonable effort to reduce water use.

(b) Approval Authority. The Executive Director of the Public Works Agency, or designee, will act upon any completed application after submittal and may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver will be promptly notified in writing of the action taken. The decision of the Executive Director of the Public Works Agency, or designee, is final.

Sec. 39-104. – Penalties, Violations, and Enforcement.

Noncompliance with restrictions on water waste shall be subject to an administrative citation. The penalties set forth in this section shall be additional to those penalties provided in any other section of this Code. The penalties for failure to comply with any of the prohibited use provisions of this article shall be as follows:

(a) First Violation: The City shall issue a written notice pursuant to section 39-105.

- (b) Second Violation: A second violation within one year from the date of the first violation is punishable by a fine of Two Hundred Fifty Dollars (\$250).
- (c) Third and Subsequent Violation(s): A third violation within one year from the date of the first violation and any subsequent violation is punishable by a fine of Five Hundred Dollars (\$500) per notice. In addition to the fine and at the discretion of the Executive Director of Public Works, or his or her designee, the City may implement one or more of the following:
 - (1) Water Flow Restrictor Device: The City may install a water flow restrictor device of approximately one gallon per minute.
 - (2) Termination of Service: Subject to applicable law, the City may disconnect and/or terminate a Customer's water service for a willful violation of mandatory restrictions in this article.
 - (3) Cost of Restricting Flow or Disconnecting Service: A Person that violates this article is responsible for payment of the City's charges for disconnecting and/or reconnecting service. All associated costs and fines must be paid in full prior to service restoration. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.
 - (4) Separate Offenses: Each day that a violation of this ordinance occurs is a separate offense.

Sec. 39-105. – Notice of Violation.

- (a) If any Person fails or refuses to comply with this article, the Executive Director of Public Works, or his or her designee, shall provide that Person with written notice of the violation and an opportunity to correct the noncompliance. The written notice shall:
 - (1) Be posted or presented at the site of the noncompliance;
 - (2) State the time, date, and place of violation;
 - (3) State a general description of the violation;
 - (4) State the means to correct the violation;
 - (5) State a date by which correction is required; and,
 - (6) State the possible consequences of failing to correct the violation.

- (b) The City will issue a Notice of Violation by mail or personal delivery to the address of the violation, to the party who is billed for the water, or to the owner of the property, as appropriate at least ten (10) calendar days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken.
- (c) Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the City 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 Shortage Level condition.

Sec. 39-106. – Procedures for Monitoring Compliance and Reporting to the State.

In order to ensure compliance with state reporting requirements and Customer compliance, the City will ensure to collect, track, and analyze relevant data per the procedures defined in the WSCP.

Sec. 39-107. – Reevaluation and Improvement Process of Water Shortage Procedures.

To ensure that water shortage risk tolerance is adequate and appropriate water shortage mitigation strategies are implemented, the WSCP will be reviewed and evaluated as defined by the procedures identified in the WSCP as needed.

Sec. 39-108 – 39-116. – Reserved.

Section 3. The City finds that this article and actions taken hereafter pursuant to this article are exempt from the provisions of the California Environmental Quality Act (CEQA) as specific actions necessary to prevent or mitigate an emergency pursuant to Section 15307 of the CEQA Guidelines.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentence, clauses, phrases, or portions are declared invalid or unconstitutional.

Section 5. This ordinance shall become effective thirty (30) days after its adoption.

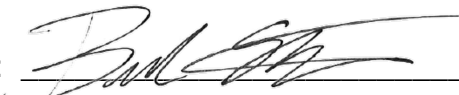
Section 6. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:

Sonia R. Carvalho, City Attorney

By: 
Brandon Salvatierra
Deputy City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council

City of Santa Ana