

Chapter 14.16

WATER CONSERVATION AND SUPPLY LEVEL REGULATIONS*

Sections:

- 14.16.010 Findings and Purpose.
- 14.16.020 Definitions.
- 14.16.030 Applicability.
- 14.16.040 Permanent Mandatory Water Conservation Requirements.
- 14.16.050 Procedure for Declaration of Water Supply Shortage—Continued Monitoring of Conditions.
- 14.16.060 Level One Mandatory Water Conservation Requirements.
- 14.16.070 Level Two Mandatory Water Conservation Requirements.
- 14.16.080 Level Three Mandatory Water Conservation Requirements.
- 14.16.090 Level Four Mandatory Water Conservation Requirements.
- 14.16.100 Exemptions.
- 14.16.110 Relief from Compliance.
- 14.16.120 Enforcement.

* Prior ordinance history Ords. 794, 1755, 91-17, 92-31 and 96-22.

14.16.010 Findings and Purpose.

A. The purpose of this chapter is to establish a water conservation and supply shortage program that, to the greatest extent possible, will reduce water consumption within the City of Newport Beach, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, maximize the efficient use of water and minimize the effect and hardship of water shortage.

B. The water conservation and supply shortage program created by this chapter establishes permanent water conservation requirements intended to alter behavior related to water use efficiency for non-shortage conditions and further establishes four levels of water supply shortage response actions to be implemented during times of declared water shortage.

C. The City Council finds as follows:

1. A reliable minimum supply of water is essential to the public health, safety and welfare of the people and economy of the Southern California region.

2. Southern California is a semi-arid region and is largely dependent upon imported 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.

3. 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 supply needs.

4. Article X, Section 2, of the California Constitution declares that the general welfare requires that water resources be put to beneficial use, that waste or unreasonable use or unreasonable method of use of water is prevented and that conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.

5. 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.

6. California Water Code Section 375 authorizes a water supplier to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.

7. The adoption and enforcement of the water conservation and supply shortage program is necessary to manage the City's water supply in the short and long term and to avoid or minimize the effects of a supply shortage within the City's service area. Such a program is essential to ensure a reliable and sustainable minimum supply of water for public health, safety and welfare.

8. Recycled water is supplied in various areas throughout the City to conserve potable water. Recycled water, like potable water, must be used efficiently and is therefore included in this program. (Ord. 2009-24 § 1 (part), 2009)

14.16.020 Definitions.

In this chapter, the following words and phrases shall have the following meanings:

"Base amount" means a base amount of water usage per billing period to be determined for each customer. For any particular billing period, the base amount shall be as indicated on the customer's municipal services statement for the prior billing cycle. For customers occupying premises for which the City's water billing history is more than three years, the base amount shall be the three-year moving average, which is calculated by the City for each water customer. For customers occupying premises for which the City's water billing history is less than three years, the base amount shall be the estimate of the water usage per billing period of similar premises and users. Notwithstanding the foregoing, in calculating the base amount, the base amount shall exclude any billing periods during which water consumption restrictions were in effect.

"Billing period" means the period of time for which the City calculates monthly water service rates for a particular customer under Section 14.12.020.

"City" shall mean the City of Newport Beach.

"City Council" shall mean the City Council of the City of Newport Beach.

"Commercial kitchen" means a facility containing a kitchen in which food is prepared for sale, such as a restaurant, cafe, hotel, catering establishment, or other food preparation establishment.

"Customer" shall mean any person using or receiving water service from the City. The term "customer" shall not include a person receiving water service within the City from the Irvine Ranch Water District or from the Mesa Consolidated Water District.

"Department of Public Health" shall mean the Orange County Department of Health.

"Excessive flow or runoff" shall mean frequent and/or large amounts of runoff from irrigation and/or other outdoor water use.

"Fire Marshall" shall mean the City of Newport Beach's Fire Marshall or his or her designee.

"Fuel modification zone" shall mean combustible native or ornamental vegetation that has been modified and partially or totally replaced with drought-tolerant, fire-retardant plants and maintained per Fire Code guidelines.

"Implementation plan" shall mean the plan developed by the Utilities Director that provides the resources (staffing and equipment) required to ensure the fair and timely execution of these requirements, as well as a detailed execution strategy.

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

"Landscape irrigation system" means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by and/or through an automated system.

"MET" shall mean the Metropolitan Water District of Southern California.

"Person" shall have the meaning ascribed to it by Section 1.08.120.

"Potable water" means water that is suitable for drinking and excludes recycled water from any source.

"Premises" means a parcel of land, or portion of a parcel, including any improvements located there, that are served by a City water meter.

“Recirculating” means the reuse of existing water, by means of capturing/containing water used, then circulating back to point of origin.

“Recycled water” means the reclamation and reuse of nonpotable water and/or wastewater for beneficial use, such as irrigation.

“Safety/sanitary hazards” means the condition that may cause or threaten to cause injury to any person or persons.

“Single-pass cooling system” means equipment where water is circulated only once to cool equipment before being disposed.

“Utilities Director” shall mean the Director of the City of Newport Beach’s Utilities Department or his or her designee.

“Water” shall mean potable water and recycled water.

“Water-conserving kitchen spray valve” means a dishwashing spray valve that uses 1.6 gallons of water or less per minute of use.

“Water conservation plan” means a plan submitted by a customer for the approval of the Utilities Director, in conjunction with a request for an exemption or partial exemption, that proposes the maximum feasible reduction in consumption.

“Water consumption restrictions” shall mean those provisions in this chapter that require customers to reduce the amount of water consumed during a water supply shortage in relation to the base amount.

“Water supply shortage” means the effective period of time during which the City Council, by resolution adopted under Section 14.16.050, has declared the existence of a water supply shortage or threatened shortage. The City Council, depending on the severity of conditions, may declare a Level One, Level Two, Level Three, or Level Four water supply shortage. (Ord. 2009-24 § 1 (part), 2009)

14.16.030 Applicability.

- A. The provisions of this chapter shall apply to all persons using water in the City.
- B. For the purposes of this chapter, the use of water by a tenant, employee, agent, contractor, representative or person acting on behalf of a customer, may, at the City’s election, be imputed to the customer. (Ord. 2009-24 § 1 (part), 2009)

14.16.040 Permanent Mandatory Water Conservation Requirements.

The following prohibitions and mandatory water conservation requirements are effective at all times, including during a water supply shortage. Violations of this section will be considered waste and an unreasonable use of water.

A. No customer shall use potable water to irrigate any lawn and/or ornamental landscape area using a landscape irrigation system or a watering device that is not continuously attended unless such irrigation is limited to no more than fifteen (15) minutes’ watering per day per station.

1. This restriction does not apply to the following unless the City has determined that recycled water is available and may be lawfully applied to the use.

a. Landscape irrigation systems that exclusively use very low flow drip type irrigation systems in which no emitter produces more than two gallons of water per hour or weather-based controllers or stream rotor sprinklers that meet a seventy (70) percent efficiency standard.

B. No person shall use water to irrigate any lawn and/or ornamental landscape area in a manner that causes or allows excessive flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch.

C. No person shall use water to wash down hard or paved surfaces, including, but not limited to, sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, 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, or a low-volume, high-pressure cleaning machine (e.g., "water broom") equipped to recycle any water used.

D. No person shall permit excessive use, loss or escape of water through breaks, leaks or other malfunctions in the person'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 days after receiving notice of the condition from the City.

E. No customer shall use potable water to irrigate lawns, groundcover, shrubbery or other ornamental landscape material during a rainfall event.

F. By July 1, 2012, all landscape irrigation systems connected to dedicated landscape meters shall include rain sensors that automatically shut off such systems during periods of rain or include evapotranspiration systems that schedule irrigation based on climatic conditions.

G. No customer shall operate a water fountain or other decorative water feature that does not use a recirculating water system.

H. No customer shall use water to clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, 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.

1. This subsection does not apply to any commercial car washing facility.

I. Effective January 1, 2010, all new commercial conveyor car wash systems in commercial car washing facilities shall be operational recirculating water systems.

J. By January 1, 2013, all commercial conveyor car wash systems in commercial car washing facilities shall be operational recirculating water systems, or the customer must have secured an exemption from this requirement pursuant to Section 14.16.100.

K. Customers operating eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drinks are sold, served, or offered for sale, shall not provide drinking water to any person unless expressly requested by the person.

L. Customers operating hotel, motel, and other commercial lodging establishments shall provide persons the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option.

M. No customer shall install a new single pass cooling system in a building or premises requesting new water service. This provision shall not prevent the replacement or repair of single pass cooling systems that were installed prior to December 31, 2009.

N. Effective January 1, 2010, all new washing machines installed in commercial and/or coin-operated laundries shall be ENERGY STAR® and CEE Tier III qualified. By January 1, 2014, all washing machines installed in commercial and/or coin-operated laundries shall be ENERGY STAR® and CEE Tier III qualified.

O. No customer shall use water from any fire hydrant for any purpose other than fire suppression or emergency aid without first: (1) requesting and posting the appropriate fees at the City, and (2) obtaining a hydrant meter to record all water consumption for a specified project. Absent a meter, water theft and meter tampering fees will be applied as appropriate.

P. Construction Site Requirements. The requirements of this subsection apply to persons engaged in construction activities. A permittee's refusal or failure to comply with these requirements shall constitute grounds for revocation of a construction or grading permit. In addition, the City may withhold occupancy and inspections until such time as the permit holder has complied.

1. No person shall use potable water for soil compaction or dust control in a construction site where there is an available and feasible source of recycled water or nonpotable water approved by the Department of Public Health and appropriate for such use.

2. No person shall operate a hose within a construction site that is not equipped with an automatic shut-off nozzle; provided, that such devices are available for the size and type of hose in use.

Q. Commercial Kitchen Requirements. No customer may operate a commercial kitchen that does not comply with the following requirements.

1. Water-Conserving Pre-Rinse Kitchen Spray Valves. New or remodeled commercial kitchens shall be equipped with water-conserving kitchen spray valves. By January 1, 2010, all commercial kitchens shall either remove all existing kitchen spray valves or retrofit kitchen spray valves with water-conserving kitchen spray valves.

2. Best-Available Water-Conserving Technology. New or remodeled commercial kitchens shall ensure that all water-using equipment in new or remodeled commercial kitchens uses the best-available, water-conserving technology.

3. No customer operating a commercial kitchen shall defrost food or allow food to be defrosted with running water.

4. Scoop sinks shall be set at minimum water flow at all times of use and shut off during non-working hours.

5. When hosing or washing kitchen or garbage areas or other areas for sanitary reasons as required by the Department of Health, hoses shall be equipped with positive self-closing nozzles. (Ord. 2009-24 § 1 (part), 2009)

14.16.050 Procedure for Declaration of Water Supply Shortage—Continued Monitoring of Conditions.

A. From time to time, the City Council may declare by resolution the existence of a Level One, a Level Two, a Level Three, or a Level Four water supply shortage. In so doing, the Council shall determine that a water supply shortage or threatened shortage exists, due to drought or other water supply conditions, and that it is necessary to impose the mandatory conservation requirements applicable to the particular level of water supply shortage. It will be necessary to make more efficient use of water and appropriately respond to conditions created by the water supply shortage. Prior to adopting a resolution declaring the existence of a water supply shortage, the City Council shall enact a resolution indicating its intention to do so, the conditions necessitating the declaration, the nature of the mandatory conservation restrictions proposed to be imposed, including the specifics of any proposed water consumption restrictions, and the day, hour and place when and where persons may appear before the City Council and be heard on whether a resolution declaring the water supply shortage should be enacted. The resolution of intention shall direct the City Clerk to publish said resolution at least once, within fifteen (15) days of the passage thereof, in a newspaper of general circulation in the City. Said notice shall be published at least ten days prior to the date of hearing. Within ten (10) days of the adoption of a resolution declaring a water supply shortage, the City Clerk shall cause the resolution to be published or posted in the manner required by California Water Code Section 376.

B. The mandatory conservation requirements that become effective following the adoption of a resolution declaring the existence of a particular level of water supply shortage shall remain in full force and effect until the resolution is repealed or until new mandatory conservation requirements become effective following the adoption of a subsequent resolution declaring the existence of a water supply shortage.

C. During the existence of a water supply shortage, the Utilities Director shall provide periodic reports to the City Council regarding compliance with the mandatory conservation requirements of the level of water supply shortage, current and anticipated allocations of water from MET, and any change in circumstances that could warrant a position of more stringent measures or relaxation of measures then in effect. (Ord. 2009-24 § 1 (part), 2009)

14.16.060 Level One Mandatory Water Conservation Requirements.

On the tenth day after a resolution declaring the existence of a Level One water supply shortage becomes effective, the following mandatory water conservation requirements shall take effect.

A. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area except on the scheduled irrigation days established for each customer by the Utilities Director. During a Level One water supply shortage, the schedule established by the Utilities Director shall specify for each customer (a) four irrigation days per week during the months of April, May, June, July, August, September, and October, and (b) two irrigation days per week during the months of November, December, January, February, and March. Prior to the foregoing restriction becoming effective, the Utilities Director shall have notified the customer of the scheduled irrigation days by mail, which may be done by an indication on the customer's municipal services statement. This restriction does not apply to the following unless the City has determined that recycled water is available and may be lawfully applied to the use:

1. Maintenance of vegetation, including trees and shrubs, that is watered using a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or a very low flow drip type irrigation system when no emitter produces more than two gallons of water per hour.

2. Irrigation of food crops (including fruit trees and vegetable gardens).

3. Short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

B. No customer shall use more water during any billing period than the percentage of the base amount established in the resolution declaring the Level One water supply shortage, which percentage shall be in the range from one hundred (100) percent and ninety (90) percent of the base amount.

C. No person shall permit excessive use, loss or escape of water through breaks, leaks or other malfunctions in the user's plumbing or distribution system for more than seventy-two (72) hours after receiving notice of the condition from the City.

D. No customer may use potable water to fill or refill an ornamental lake, pond, or fountain more than once per week, except to the extent needed to sustain aquatic life; provided, that such animals were being actively managed within the water feature at the time of the City's initial declaration of a then-continuing water supply shortage.

E. No customer may use potable water to fill or refill by more than one foot a residential swimming pool or outdoor spa more than once a week. (Ord. 2009-24 § 1 (part), 2009)

14.16.070 Level Two Mandatory Water Conservation Requirements.

On the tenth day after a resolution declaring the existence of a Level Two water supply shortage becomes effective, the following mandatory water conservation requirements shall take effect.

A. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area 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 short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

B. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area except on the scheduled irrigation days established by City Council resolution. During a Level Two water supply shortage, the schedule established by City Council resolution shall specify for each customer (a) three irrigation days per week during the months of April, May, June, July, August, September, and October, and (b) one irrigation day per week during the months of November, December, January, February, and March. Prior to the foregoing restriction becoming effective, the City shall notify the customer of the scheduled irrigation days

by mail, which may be done by an indication on the customer's municipal services statement. This restriction does not apply to the following unless the City has determined that recycled water is available and may be lawfully applied to the use:

1. Maintenance of vegetation, including trees and shrubs, that is watered using a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or a very low flow drip type irrigation system when no emitter produces more than two gallons of water per hour.

2. Irrigation of food crops (including fruit trees and vegetable gardens); provided, that such irrigation does not exceed five times per week on a schedule established and posted by the City's Utilities Department.

3. Short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

C. No customer shall use more water during any billing period than the percentage of the base amount established in the resolution declaring the Level Two water supply shortage, which percentage shall be in the range from ninety (90) percent to seventy-five (75) percent of the base amount.

D. No person shall permit excessive use, loss or escape of water through breaks, leaks or other malfunctions in the user's plumbing or distribution system for more than forty-eight (48) hours after receiving notice of the condition from the City.

E. No customer may use potable water to fill or refill an ornamental lake, pond, or fountain more than once every other week, except to the extent needed to sustain aquatic life; provided, that such animals were being actively managed within the water feature at the time of the City's declaration of the water supply shortage under this chapter.

F. No customer may use potable water to fill or refill by more than one foot a residential swimming pool or outdoor spa more than once every other week. (Ord. 2009-24 § 1 (part), 2009)

14.16.080 Level Three Mandatory Water Conservation Requirements.

On the tenth day after a resolution declaring the existence of a Level Three water supply shortage becomes effective, the following mandatory water conservation requirements shall take effect.

A. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area 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 short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

B. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area except on the scheduled irrigation days established by City Council resolution. During a Level Three water supply shortage, the schedule established by City Council resolution shall specify for each customer (a) two irrigation days per week during the months of April, May, June, July, August, September, and October, and (b) one irrigation day per week during the months of November, December, January, February, and March. Prior to the foregoing restriction becoming effective, the City shall notify the customer of the scheduled irrigation days by mail, which may be done by an indication on the customer's municipal services statement. This restriction does not apply to the following unless the City has determined that recycled water is available and may be lawfully applied to the use:

1. Maintenance of vegetation, including trees and shrubs, that is watered using a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or a very low flow drip type irrigation system when no emitter produces more than two gallons of water per hour.

2. Irrigation of food crops (including fruit trees and vegetable gardens); provided, that such irrigation does not exceed three days per week on a schedule established and posted by the City's Utilities Department.

3. Short periods of irrigation for the exclusive purpose of adjusting or repairing an irrigation system.

C. No customer shall use more water during any billing period than the percentage of the base amount established in the resolution declaring the Level Three water shortage, which percentage shall be in the range from seventy-five (75) percent and sixty (60) percent of the base amount.

D. No person shall permit excessive use, loss or escape of water through breaks, leaks or other malfunctions in the user's plumbing or distribution system for more than twenty-four (24) hours after receiving notice from the City.

E. No customer may use potable water to fill or refill an ornamental lake, pond, or fountain, except to the extent needed to sustain aquatic life; provided, that such animals were being actively managed within the water feature at the time of the City's declaration of the water supply shortage under this chapter.

F. No customer may use potable water to fill or refill a residential swimming pool or outdoor spa. (Ord. 2009-24 § 1 (part), 2009)

14.16.090 Level Four Mandatory Water Conservation Requirements.

On the tenth day after a resolution declaring the existence of a Level Four water supply shortage becomes effective, the following mandatory water conservation requirements shall take effect.

A. No customer shall use potable water to irrigate any lawn, landscape or other vegetated area. This restriction does not apply to the following categories of use unless the City has determined that recycled water is available and may be lawfully applied to the use:

1. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device;

2. Maintenance of existing landscape to the extent necessary for fire protection;

3. Maintenance of existing landscape to the extent necessary for soil erosion control;

4. Maintenance of plant materials identified to be rare or essential to the well-being of rare animals;

5. Maintenance of landscape within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens; provided, that such irrigation does not exceed two times per week on a schedule established by resolution of the City Council and posted by the Utilities Director;

6. Public works projects and actively irrigated environmental mitigation projects;

7. Food crops (including fruit trees and vegetable gardens); provided, that such irrigation does not exceed two times per week on a schedule established and posted by the City's Utilities Department.

B. The City will not (a) provide new potable water service, new temporary meters, or new permanent meters, or (b) issue statements of immediate ability to serve or to provide potable water service, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect public health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that, ensures, to the satisfaction of the Utilities Director, the water demands for the project will be offset prior to the provision of a new water meter(s).

This restriction does not preclude the resetting or turn-on of meters to provide continuation of water service or the restoration of service that has been interrupted for a period of one year or less.

C. No customer shall use more water during any billing period than the percentage of the base amount established in the resolution declaring the Level Four water shortage, which percentage shall be less than sixty (60) percent of the base amount.

D. No person shall permit excessive use, loss or escape of water through breaks, leaks or other malfunctions in the user's plumbing or distribution system for more than twenty-four (24) hours after receiving notice from the City.

E. No customer may use potable water to fill or refill an ornamental lake, pond, or fountain, except to the extent needed to sustain aquatic life; provided, that such animals were being actively managed within the water feature at the time of the City's declaration of the water supply shortage under this chapter.

F. No customer may use potable water to fill or refill a residential swimming pool or outdoor spa. (Ord. 2009-24 § 1 (part), 2009)

14.16.100 Exemptions.

A. The provisions of this chapter do not apply to any of the following.

1. Uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services.

2. The filling, operation, and maintenance of a swimming pool that is open to the public at rates of charge deemed reasonable by the City Council.

3. The washing of refuse, sanitation and service vehicles owned and operated by a public entity to the extent necessary to ensure public health, safety and welfare; provided, that recycled water or a recirculating water system will be used where feasible.

B. Any restrictions imposed by this chapter that require the reduction of consumption shall not be applicable to any of the following.

1. Customers who have participated in a fuel load modification program and have received an exemption from the Utilities Director and Fire Marshall. The Utilities Director and Fire Marshall shall only grant exemptions necessary to mitigate the impacts of participation in the fuel modification zone program, such as the need to irrigate replacement vegetation.

2. Customers that operate hospitals, medical care facilities, nurseries or other businesses whose main stock and trade consists of the sale or cultivation of plants and vegetation, and businesses in which water consumption is an integral part of production or manufacturing; provided, that such customers shall first submit a water conservation plan to, and obtain the approval of, the Utilities Director. This exemption does not extend to the use of potable water for the irrigation of landscape areas.

C. The Utilities Director shall approve a water conservation plan only if the plan proposes the maximum feasible reduction in consumption. As a condition of approving the water conservation plan, the Utilities Director may require the use of water conservation devices or practices as he or she deems appropriate to result in the maximum feasible reduction in consumption. (Ord. 2009-24 § 1 (part), 2009)

14.16.110 Relief from Compliance.

A. Intent and Purpose. The City Council recognizes that water consumption can increase or decrease because of factors unrelated to wasteful water use practices. Many customers have installed water-saving devices and adopted water conservation practices that make it difficult to satisfy the water consumption restrictions required by this chapter. This section recognizes that adjustments to the base amount may be necessary to ensure that application of this chapter to any particular customer does not produce unjust or inequitable results. In addition, the section recognizes unique circumstances may result in undue or disproportionate hardship as to a

person using water which is different from the impacts to water users generally. As a general rule, the Utilities Director should not grant relief to any person or customer for any reason in the absence of showing that the person or customer has achieved the maximum feasible reduction in water consumption other than in the specific area or areas for which relief is requested.

B. Procedures. A person or customer may file an application for relief from the provisions of this chapter with the Utilities Director. The application shall be submitted in writing to the Utilities Department. The application must be filed within ninety (90) days after the effective date of this chapter or ninety (90) days after implementation of the then-current water supply shortage level, whichever shall occur last. The Utilities Director may require the submission of additional supporting documentation that he or she deems necessary to grant the application for relief. The Utilities Director shall approve or disapprove the application for relief within thirty (30) days after it is filed and deemed complete.

C. Factors to Be Considered.

1. Relief from Water Consumption Restrictions. In determining whether relief should be granted from water consumption restrictions, the Utilities Director shall consider all relevant factors including, but not limited to, the following:

- a. Whether compliance with the water conservation requirements then in effect would result in unemployment or layoff of workers;
- b. Whether additional persons are now living or working in the customer's premises that were not living or working in the premises during all or a portion of the billing periods used to calculate the base amount;
- c. Whether the customer had, during all or a portion of the billing periods used to calculate the base amount, begun using water conservation practices that remain in use and that reduced the customer's water usage by an amount equivalent to the reduction required by the water supply shortage;
- d. Whether any current or anticipated increase in production or manufacturing will require the use of additional water;
- e. The extent to which irrigation or watering of landscaping has been made necessary by compliance with fuel load modification programs; and
- f. The extent to which the customer needs to use water to mitigate any emergency health or safety hazards.

2. Relief from All Other Requirements. In determining whether relief should be granted from all requirements other than water consumption restrictions, the Utilities Director must find, based on the application and supporting documentation, that:

- a. The relief does not constitute a grant of special privilege inconsistent with the limitations imposed by this chapter on other persons and customers;
- b. Because of special circumstances applicable to the customer's or person's property or its use, the strict application of this chapter would have an impact on the person or customer that is disproportionate to the impact on other similarly situated persons or customers;
- c. The condition or situation of the person's or customer's premises for which the relief is sought is not common or general in nature; and
- d. The person or customer has achieved or will achieve the maximum feasible reduction in water consumption other than in the specific area or areas from which relief is requested.

D. Agreement. The Utilities Director is empowered to enter into an agreement with any person or customer to resolve the application for relief. The agreement shall be memorialized in writing signed by the person or customer. The agreement shall fix the rights of the person or customer and the City. During the effectiveness of the agreement, the person or customer shall have no further right to seek relief pursuant to the provisions of this section.

E. Final Decision. The Utilities Director shall notify the person or customer of the decision on the application for relief by mailing a notice of the decision to the person or customer by means of first class, postage prepaid, to the address specified on the application.

F. Appeal of Final Decision. A person or customer may appeal the decision of the Utilities Director by submitting a written request within (90) days of the date of the Utilities Director's written decision. A written appeal request shall be submitted to the City Manager and include the reasons for the request and signature of the person or customer submitting the request. The City Manager may approve or disapprove the appeal within (30) days from receipt of a request. The decision of the City Manager shall be final.

G. Willful Misrepresentation. Notwithstanding any other provision of law, no person shall make any willful misrepresentation of a material fact with respect to any application for relief submitted pursuant to this section. Any violation of the provisions of this subsection shall be considered a misdemeanor, punishable as otherwise provided in this Code. (Ord. 2009-24 § 1 (part), 2009)

14.16.120 Enforcement.

A. Responsibility—Implementation Plan. The Utilities Director shall be responsible for the enforcement of this chapter. The Utilities Director shall develop an implementation plan to be used as a guideline for enforcing the provisions of this chapter. The implementation plan shall provide the resources (staffing and equipment) required to ensure the fair and timely execution of these requirements, as well as a detailed execution strategy. In addition, the implementation plan shall ensure, so far as is reasonable under the circumstances, that persons are notified of violations and are provided an opportunity to cure the violation prior to being cited.

B. Additional Enforcement Options. In addition to the means of ensuring compliance set forth in Section 1.04.010, the City may elect to impose the following requirements on a customer in the event of a continuing violation:

1. Water Flow Restrictors. The City may install a water flow restrictor of approximately one gallon per minute for services up to one and one-half inches in size and comparatively sized restrictors for larger services. Prior to doing so, the City shall first provide a minimum of forty-eight (48) hours' notice of its intent to install a water flow restrictor. In the event that a customer refuses to permit the installation of a water flow restrictor following the City's election to do so, the City may terminate the customer's water service.

2. Termination of Service. The City may disconnect a customer's water service for willful violations of mandatory restrictions in this chapter. (Ord. 2009-24 § 1 (part), 2009)