



CITY OF SOUTH EL MONTE

CITY COUNCIL STAFF REPORT

DATE: October 28, 2014

TO: Honorable Mayor and
Members of the City Council

FROM: Anthony R. Ybarra *ARY*
City Manager

PREPARED BY: Manuel A. Mancha *MM*
Director of Community Development

SUBJECT: An Ordinance Amending the Municipal Code to adopt a new Chapter 8.46 of Title 8 to enact Water Conservation Measures and Associated Penalties

SUMMARY: The City is proposing to adopt an Ordinance to establish certain restrictions on the use of potable water in the City and associated penalties for violations of those restrictions. The purpose of the Ordinance is to reduce water consumption in response to the State's drought conditions. Other local governments and water agencies are implementing water conservation measures to reduce the amount of water wasted in the State.

RECOMMENDATION: Staff recommends that the City Council adopt Ordinance No. 1191.

PREVIOUS RELATED ACTION After conducting a public hearing on October 14, 2014, the City Council introduced the Ordinance.

PUBLIC NOTICE: Public Notice was posted on September 29, 2014 for City Council Public Hearing as required by Chapter 1.20 of the South El Monte Municipal Code

**ENVIRONMENTAL:
DETERMINATION** Exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) -- No Significant Effect

ATTACHMENTS: A- Draft Ordinance No. 1191

ATTACHMENT A

Draft Ordinance No. 1191

ORDINANCE NO. 1191

**AN ORDINANCE OF THE CITY OF SOUTH EL MONTE
AMENDING THE MUNICIPAL CODE TO ADOPT A NEW
CHAPTER 8.46 OF TITLE 8 TO ENACT WATER
CONSERVATION MEASURES AND ASSOCIATED
PENALTIES**

THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds:

WHEREAS, on January 17, 2014, Governor Edmund G. Brown Jr. declared a state of emergency in California due to severe drought conditions and called on all Californians to reduce water usage by twenty percent.

WHEREAS, on April 25, 2014, Governor Brown issued an executive order finding that the continued drought conditions present urgent challenges and called for additional action to address the impacts of the drought.

WHEREAS, on July 15, 2014, the State Water Resources Control Board adopted emergency water conservation regulations (23 California Code of Regulations Section 865), which establish certain prohibitions on water use intended to promote water conservation.

WHEREAS, the State Water Resources Control Board declared that its regulations do not preclude a local agency from exercising its authority to adopt more stringent conservation measures or from adopting more progressive enforcement practices.

WHEREAS, the City of South El Monte desires to adopt the water conservation measures found in this Ordinance to help the State address the ongoing drought and achieve water conservation goals, as well as to ensure an adequate water supply is available to City residents and businesses.

SECTION 2. A new Chapter 8.46 of Title 8 of the South El Monte Municipal Code entitled "Water Conservation" is hereby added to read as follows:

Chapter 8.46

Water Conservation

Sections:

8.46.010	Purpose and Intent
8.46.020	Definitions
8.46.030	Application
8.46.040	Voluntary Water Conservation Requirements; Prohibition Against Waste
8.46.050	Water Supply Shortage; Mandatory Water Conservation
8.46.060	Procedures for Determination/Notification of a Water Supply Shortage
8.46.070	Hardship Waiver
8.46.080	Penalties and Violations

8.46.010 Purpose and Intent.

A. The purpose of this Chapter is to establish water conservation measures that will reduce water consumption within the City of South El Monte through conservation, assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the City of South El Monte to avoid and minimize the effects of drought on City residents and businesses to the greatest extent possible.

B. This Chapter establishes voluntary and, when implemented, mandatory water conservation standards intended to alter behavior related to water use efficiency at all times.

8.46.020 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings defined in this Section:

A. **Landscape Irrigation System:** An irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.

B. **Person:** Any natural person or persons, corporation, public or private entity, governmental agency or institution, including all agencies and departments of the City of South El Monte, or any other user of water provided in the City of South El Monte.

C. **Potable Water:** Water which is suitable for drinking.

D. **Recycled Water:** Reclaimed and reused water for beneficial use.

8.46.030 Application.

A. The provisions of this Chapter apply to any person using potable water within the City of South El Monte.

B. The provisions of this Chapter do not apply to the use of recycled water.

C. The provisions of this Chapter 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.

D. The provisions of this Chapter 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 Chapter 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 Chapter 8.44 of Title 8 of the South El Monte Municipal Code for regulations of stormwater within the City.

8.46.040 Voluntary Water Conservation Requirements; Prohibition Against Waste.

The following voluntary water conservation requirements are effective at all times. Actions contrary to this section will be considered waste and an unreasonable use of water.

A. Limits On Watering Hours: Watering or irrigating of a lawn, landscape or other vegetated area with potable water is prohibited between the hours of nine o'clock (9:00) A.M. and five o'clock (5:00) P.M. on any day, except 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 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 seventy percent (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 water flow or runoff onto an adjoining 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 handheld bucket or similar container, a handheld hose equipped with a positive self-closing water shutoff device, a low volume, high pressure cleaning machine, 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 South El Monte, is prohibited.

F. Recirculating Water Required For Water Fountains And Decorative Water Features: Operating a water fountain or other decorative water feature that does not use recirculated 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 handheld bucket or similar container or a handheld hose equipped with a positive self-closing water shutoff nozzle or device.

H. Drinking Water Served Upon Request Only: Eating or drinking establishments, including, but not limited to, a restaurant, cafe, cafeteria, 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.

8.46.050 Water Supply Shortage; Mandatory Water Conservation.

A water supply shortage exists when the City of South El Monte determines 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 a declaration of a water supply shortage condition by the City of South El Monte, the voluntary measures outlined in section 8.46.040 of this Chapter shall become mandatory.

8.46.060 Procedures for Determination/Notification of a Water Supply Shortage.

The existence of a water supply shortage as defined in Section 8.46.050 may be declared by resolution of the City Council of the City of South El Monte adopted at a regular or special public meeting held in accordance with state law. The mandatory conservation requirements will take effect on the tenth day after the date the water supply shortage is declared. Within ten (10) days following the declaration of the water supply shortage, the City must publish a copy of the resolution in a newspaper used for publication of official notices.

8.46.070 Hardship Waiver.

If, due to unique circumstances, a specific requirement of this Chapter would result in undue hardship to a person or public entity 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.

A. 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.

B. Application: Application for a waiver must be on a form prescribed by the City of South El Monte. The City may charge a nonrefundable processing fee in an amount set by City Council resolution.

C. Supporting Documentation: The application must be accompanied by photographs, maps, drawings, or other relevant information, including a written statement of the applicant.

D. Required Findings For Waiver: An application for a waiver will be denied unless the city manager, or his/her designee, finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on available water use information for the property, all of the following:

1. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;

2. 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;

3. 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 South El Monte to effectuate the purpose of this Chapter and will not be detrimental to the public interest; and

4. 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.

E. Approval Authority: The city manager, or his/her designee, 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 manager, or his/her designee, will be final.

8.46.080 Penalties and Violations.

Any violation of this Chapter shall be enforced as provided in chapter 1.16 of Title 1 of the South El Monte Municipal Code.”

SECTION 3. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. It is, therefore, exempt from California Environmental Quality Act review pursuant to Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 et seq.). In addition, this Ordinance is exempt under CEQA Guidelines Section 15307 because the Ordinance adopts water conservation regulations in a manner that would protect a natural resource.

SECTION 4. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and shall post or publish as required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of South El Monte at a meeting thereof held on the 28th day of October, 2014.

Luis A. Aguiñaga, Mayor

ATTEST:

Rose Juarez, City Clerk

APPROVED AS TO FORM:

Quinn M. Barrow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH EL MONTE)

I, Rose Juarez, South El Monte City Clerk, do hereby certify that the foregoing Ordinance, being Ordinance No. 1191, was duly passed and approved by the South El Monte City Council at a regular meeting held on October 28, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rose Juarez, City Clerk