

ORDINANCE NO. 2449

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF  
THE CITY OF WESTMINSTER TO AMEND CHAPTER  
13.14 (EMERGENCY WATER MANAGEMENT PROGRAM)  
TO WATER CONSERVATION AND WATER SUPPLY  
SHORTAGE PROGRAM OF THE WESTMINSTER  
MUNICIPAL CODE

The Mayor and City Council of the City of Westminster HEREBY ORDAIN AS  
FOLLOWS:

SECTION 1: Chapter 13.14 Emergency Water Management Program title of the  
Westminster Municipal Code is hereby repealed and replaced with the following title:

Chapter 13.14 Water Conservation and Water Supply Shortage Program

SECTION 2: Section 13.14.010 Application of the Westminster Municipal Code  
is hereby repealed and replaced in its entirety with the following:

13.14.010 Application.

The provisions of this chapter apply to any person in the use of any  
potable water provided by the City of Westminster.

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.

The provisions of this chapter do not apply to the use of recycled water,  
with the exception of Section 13.14.050(a).

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.

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 the local jurisdiction or Regional Water Quality  
Control Board for information on any stormwater ordinances and stormwater  
management plans.

SECTION 3: Section 13.14.030 Water Conservation Phases of the Westminster  
Municipal Code is hereby repealed and replaced in its entirety with the following:

13.14.030 Declaration of Purpose and Intent.

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

This chapter establishes permanent water conservation standards intended to alter behavior related to water use efficiency at all times, and further establishes three levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.

SECTION 4: Section 13.14.040 Conservation Phase Implementation of the Westminster Municipal Code is hereby repealed and replaced in its entirety with the following:

#### 13.14.040 Definitions.

The following words and phrases whenever used in this chapter have the meaning defined in this section:

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

7. "Billing unit" means the unit of water used to apply water rates for purposes of calculating water charges for a person's water usage and equals 748 gallons.

SECTION 5: Section 13.14.050 Establish Water Appeals Board of the Westminster Municipal Code is hereby changed to Section 13.14.200 Establish Water Appeals Board, and Section 13.14.050 is hereby replaced in its entirety with the following.

13.14.050 Permanent Water Conservation Requirements – Prohibition Against Waste

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

- a. Limits on Watering Hours: Watering or irrigating of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 8:00 a.m. and 6:00 p.m. for the months June through September, and 9:00 a.m. to 5:00 p.m. for the months October through May, local time, on any day, except by use of a hand-water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
- b. Limit on Watering Duration: Watering or irrigating of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than fifteen (15) minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour, and weather-based controllers or stream rotor sprinklers that meet a 70% efficiency standard.
- c. No Excessive Water Flow or Runoff: Watering or irrigating of any lawn, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
- d. No Washing Down Hard or Paved Surfaces: Washing down hard or paved surfaces, including, but not limited to, sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off device, a low-volume, high-pressure

cleaning machine equipped to recycle any water used, or a low-volume high-pressure water broom.

- e. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected, and in no event, more than seven (7) days of receiving notice from the City, is prohibited.
- f. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
- g. **Limits on Washing Vehicles:** Using water to wash or clean a vehicle, including, but not limited to, any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited, except by use of a hand-held bucket or similar container, or a hand-held hose equipped with a positive self-closing water shut-off nozzle or device. This subsection does not apply to any commercial car washing facility.
- h. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including, but not limited to, a restaurant, hotel, cafe, cafeteria, bar, or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.
- i. **Commercial Lodging Establishments Must Provide Guests Option to Decline Daily Linen Services:** Hotels, motels and other commercial lodging establishments must provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.
- j. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new water service.
- k. **No Installation of Non-re-circulating Water Systems in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.

- l. Restaurants Required to Use Water Conserving Dish Wash Spray Valves: Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.
- m. Commercial Car Wash Systems: Effective January 1, 2011, all new 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.

SECTION 6: Section 13.14.060 Water Appeals Board-Powers and Duties of the Westminster Municipal Code is hereby changed to Section 13.14.210 Water Appeals Board-Powers and Duties, and Section 13.14.060 is hereby replaced in its entirety with the following.

#### 13.14.060. Level 1 Water Supply Shortage

A Level 1 water supply shortage exists when the City Council determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists, and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City Council of a Level 1 water supply shortage condition, the City will implement the mandatory Level 1 conservation measures identified in this section.

SECTION 7: Section 13.14.070 Board Officer-Director of Public Works-Powers and Duties of the Westminster Municipal Code is hereby changed to Section 13.14.220 Board Officer-Director of Public Works-Powers and Duties, and Section 13.14.070 is hereby replaced in its entirety with the following.

#### 13.14.070. Additional Water Conservation Measures

In addition to the prohibited uses of water identified in Section 13.14.050, the following water conservation requirements apply during a declared Level 1 water supply shortage:

- a. Limits on Watering Days: Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to four (4) days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than two (2) days per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems, when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or

similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

- b. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within four (4) days of notification by the City, unless other arrangements are made with the City.

SECTION 8: Section 13.14.080 Water Conservation Rules-Application and Amendments of the Westminster Municipal Code is hereby changed to Section 13.14.230 Water Conservation Rules-Application and Amendments, and Section 13.14.080 is hereby replaced in its entirety with the following.

13.14.080. Level 2 Water Supply Shortage

A Level 2 water supply shortage exists when the City Council determines, in its sole discretion, that due to drought or other water supply conditions, a water supply shortage or threatened shortage exists and a consumer demand reduction is necessary to make more efficient use of water and appropriately respond to existing water conditions. Upon the declaration by the City of a Level 2 water supply shortage condition, the City will implement the mandatory Level 2 conservation measures identified in this section.

SECTION 9: Section 13.14.090 Request for Exemptions from Regulations of the Westminster Municipal Code is hereby changed to Section 13.14.240 Request for Exemptions from Regulations, and Section 13.14.090 is hereby replaced in its entirety with the following.

13.14.090. Additional Conservation Measures

In addition to the prohibited uses of water identified in Sections 13.14.050 and 13.14.070, the following additional water conservation requirements apply during a declared Level 2 water supply shortage:

- a. **Watering Days:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to three (3) days per week on a schedule established and posted by the City. During the months of November through March, watering or irrigating of lawn, landscape or other vegetated area with potable water is limited to no more than one (1) day per week on a schedule established and posted by the City. This provision does not apply to landscape irrigation zones that exclusively use very low flow drip type irrigation systems when no emitter produces more than two (2) gallons of water per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container,

a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

- b. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within seventy-two (72) hours of notification by the City, unless other arrangements are made with the City.
- c. **Limits on Filling Ornamental Lakes or Ponds:** Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this ordinance.
- d. **Limits on Filling Residential Swimming Pools & Spas:** Re-filling of more than eighteen (18) inches, and initial filling of residential swimming pools or outdoor spas with potable water, is prohibited.

**SECTION 10:** Section 13.14.100 Failure to Comply of the Westminster Municipal Code is hereby repealed and replaced in its entirety with the following:

**13.14.100. Level 3 Water Supply Shortages – Emergency Condition**

A Level 3 water supply shortage condition is also referred to as an “emergency” condition. A Level 3 condition exists when the City Council declares a water shortage emergency and notifies its residents and businesses that a significant reduction in consumer demand is necessary to maintain sufficient water supplies for public health and safety. Upon the declaration of a Level 3 water supply shortage condition, the City will implement the mandatory Level 3 conservation measures identified in this section.

**SECTION 11:** Section 13.14.110 Additional Conservation Measures is hereby added to the Westminster Municipal Code:

**13.14.110. Additional Conservation Measures**

In addition to the prohibited uses of water identified in Sections 13.14.050, 13.14.070, and 13.14.090, the following water conservation requirements apply during a declared Level 3 water supply shortage emergency:

- a. **No Watering or Irrigating:** Watering or irrigating of lawn, landscape or other vegetated area with potable water is allowed one (1) day per week. This restriction does not apply to the following categories of

use, unless the City of Westminster has determined that recycled water is available and may be applied to the use:

- i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive self-closing water shut-off nozzle or device;
  - ii. Maintenance of existing landscape necessary for fire protection;
  - iii. Maintenance of existing landscape for soil erosion control;
  - iv. Maintenance of plant materials identified to be rare or essential to the well-being of protected species;
  - v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, and school grounds, provided that such irrigation does not exceed two (2) days per week according to the schedule established in Section 13.14.090(a), and time restrictions in Section 13.14.050(a) and (b);
  - vi. Actively irrigated environmental mitigation projects.
- b. **Obligation to Fix Leaks, Breaks or Malfunctions:** All leaks, breaks, or other malfunctions in the water user's plumbing or distribution system must be repaired within forty-eight (48) hours of notification by the City, unless other arrangements are made with the City.
  - c. **Limits on Building Permits:** The City may limit or withhold the issuance of building permits which require new or expanded water service, except to protect the public health, safety and welfare, or in cases which meet the City's adopted conservation offset requirements.
  - d. **Discontinue Service:** The City Council, in its sole discretion, may discontinue service to consumers who willfully violate provisions of this section.
  - e. **No New Annexations:** Upon the declaration of a Level 3 water supply shortage condition, the City may suspend consideration of annexations to its service area. This subsection does not apply to boundary corrections and annexations that will not result in any increased use of water.

SECTION 12: Section 13.14.120 Procedures for Determination/Notification of Water Supply Shortage is hereby added to the Westminster Municipal Code:

13.14.120. Procedures for Determination/Notification of Water Supply Shortage

Declaration and Notification of Water Supply Shortage: The existence of Level 1, Level 2, or Level 3 water supply shortage conditions may be declared by resolution of the City Council, adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation requirements applicable to Level 1, Level 2, or Level 3 conditions will take effect on the tenth (10<sup>th</sup>) day after the date the shortage level is declared. Within five (5) days following the declaration of the shortage level, the City shall publish a copy of the resolution in a newspaper used for publication of official notices. If the City activates a water allocation process, it must provide notice of the activation by including it in the regular billing statement or by any other mailing to the address to which the City customarily mails the billing statement for fees or charges for on-going water service. A water allocation will be effective on the fifth (5<sup>th</sup>) day following the date of mailing or at such later date as specified in the notice.

SECTION 13: Section 13.14.130 Hardship Waiver is hereby added to the Westminster Municipal Code:

13.14.130. Hardship Waiver

Undue and Disproportionate Hardship: If, due to unique circumstances, a specific requirement of this chapter would result in undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impacts to water users generally or to similar property or classes of water users, then the person may apply for a waiver to the requirements as provided in this section.

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.

- a. Application: Application for a waiver must be on a form prescribed by the City and accompanied by a non-refundable processing fee in an amount set by a City Council resolution.

- b. **Supporting Documentation:** The application must be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
- c. **Required Findings for Waiver:** An application for a waiver will be denied unless the City finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the City, all of the following:
  - i. That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
  - ii. That because of special circumstances applicable to the property or its use, the strict application of this chapter would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses generally;
  - iii. That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City to effectuate the purpose of this chapter and will not be detrimental to the public interest; and
  - iv. That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.
- d. **Approval Authority:** The Public Works Director, or his designated representative, 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 Public Works Director, or his designated representative, will be final, unless appealed.

SECTION 14: Section 13.14.140 Penalties and Violations is hereby added to the Westminster Municipal Code:

13.14.140. Penalties and Violations

Penalties: Penalties for failure to comply with any provisions of the chapter are as follows:

- a. First Violation: City will issue a notice by mail and in person and include a copy of this chapter defining the violation and citing any corrections necessary.
- b. Second Violation: A second violation within twelve (12) months of the initial violation will cause the City to issue a notice by mail and in person, defining the violation and citing any corrections necessary.
- c. Third Violation: A third violation within twelve (12) months of the initial violation is punishable by a fine not to exceed fifty dollars (\$50).
- d. Fourth Violation: A fourth violation within twelve (12) months of the initial violation is punishable by a fine not to exceed one hundred and fifty dollars (\$150).
- e. Fifth and Subsequent Violations: A fifth and any subsequent violation within twelve (12) months of the initial violation is punishable by a fine not to exceed two hundred and fifty dollars (\$250).
  - i. Water Flow Restrictor: In addition to any fines, the City may install a water flow restrictor device of approximately one (1) gallon per minute capacity for services up to one and one-half inch size (1½") and comparatively sized restrictors for larger services after written notice of intent to install a flow restrictor for a minimum of forty-eight (48) hours.
- f. Discontinuing Service: In addition to any fines and the installation of a water flow restrictor, the City may disconnect a customer's water service for willful violations of mandatory restrictions in this chapter.

SECTION 15: Section 13.14.150 Cost of Flow Restrictor and Disconnecting Service is hereby added to the Westminster Municipal Code:

13.14.150. Cost of Flow Restrictor and Disconnecting Service

A person or entity that violates this chapter is responsible for payment of the City's charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the City's schedule of charges then in effect. The charge for installing and/or removing any flow restricting

device must be paid to the City before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

SECTION 16: Section 13.14.160 Separate Offenses is hereby added to the Westminster Municipal Code:

13.14.160. Separate Offenses

Each day that a violation of this chapter occurs is a separate offense.

SECTION 17: Section 13.14.170 Notice and Hearing is hereby added to the Westminster Municipal Code:

13.14.170. Notice and Hearing

The City will issue a Notice of Violation by mail or personal delivery at least ten (10) days before taking enforcement action. Such notice must describe the violation and the date by which corrective action must be taken. A customer may appeal the Notice of Violation by filing a written notice of appeal with the City no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed will be final. Upon receipt of a timely appeal, a hearing on the appeal will be scheduled, and the City will mail written notice of the hearing date to the customer at least ten (10) days before the date of the hearing.

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 level condition.

SECTION 18: Section 13.14.180 Misdemeanor is hereby added to the Westminster Municipal Code:

13.14.180. Misdemeanor

Any violation of this chapter may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

SECTION 19: Section 13.14.190 Severability is hereby added to the Westminster Municipal Code:

13.14.190 Severability

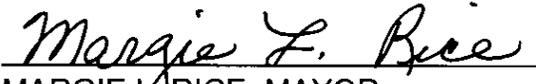
If any section, subsection, sentence, clause, phrase, or portion in this chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, the validity of the remaining portions of the chapter will not be affected. The Mayor and City Council hereby declare it would have passed this ordinance and each section, subsection, sentence, clause or

phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or portions thereof is declared invalid or unconstitutional.

SECTION 20: The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner required by law. This ordinance shall become effective thirty (30) days from and after its passage.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2009, by the following vote:

AYES: COUNCIL MEMBERS: RICE, TA, FRY, QUACH, DIEP  
NOES: COUNCIL MEMBERS: NONE  
ABSENT: COUNCIL MEMBERS: NONE

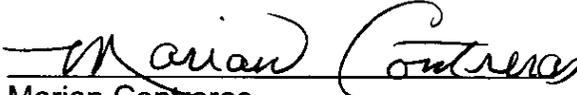
  
MARGIE L. RICE, MAYOR

ATTEST:

  
MARIAN CONTRERAS, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF WESTMINSTER )

I, MARIAN CONTRERAS, City Clerk of the City of Westminster, do hereby certify that the foregoing ordinance was introduced on the 13<sup>th</sup> day of May 2009, and was regularly adopted at a meeting thereof on the 27<sup>th</sup> day of May, 2009.

  
Marian Contreras  
City Clerk