

CITY OF BENICIA

ORDINANCE NO. 14- 4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE BY ADDING CHAPTER 13.36 (EMERGENCY OUTDOOR WATER RESTRICTIONS)

THE CITY COUNCIL OF THE CITY OF BENICIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1.

Title 13 (Public Services) of the Benicia Municipal Code is amended by adding a new Chapter 13.36 (Emergency Outdoor Water Restrictions) to read as follows:

Chapter 13.36

EMERGENCY OUTDOOR WATER RESTRICTIONS

Sections:

- 13.36.010 Findings.
- 13.36.020 Definitions.
- 13.36.030 Authorization.
- 13.36.040 Outdoor Conservation of Water.
- 13.36.050 New Landscaping.
- 13.36.060 Violation – Enforcement.

13.36.010 Findings. The city council finds that:

- A. The city of Benicia is facing a serious water shortage.
- B. The city's main water supply source is the State Water Project (SWP).
- C. During normal years the SWP supplies approximately 85% of the city's water demand.
- D. On April 22, 2014 the California Department of Water Resources announced that city's water supply allocation from the SWP would be 5% due to exceptionally dry conditions and low water levels in the reservoirs.
- E. To prevent waste and ensure reasonable use of water supplied by the city water distribution system, it is necessary to enact certain limitations to promote water conservation by city customers.
- F. These limitations are focused on outdoor water use, because at a typical home, more than 50% of the water use goes on lawns and outdoor landscaping, and about 30% of that is lost due to overwatering and evaporation from wind and sun.

- G. Water use limitations are designed to promote the use of drip irrigation and other low volume irrigation methods that reduce outdoor water use by applying water more efficiently than traditional irrigation methods.
- H. Reduction of water use through water conservation will protect and promotes the public health, safety, and welfare by conserving a vital resource that is subject to ever increasing demands.

13.36.020 Definitions.

As used in this chapter, the following words, phrases and terms shall have the following definitions:

“City water” means any water delivered by the city’s water distribution system.

“Director” means the public works director or designee.

“Low volume irrigation” means any irrigation system that applies irrigation water at low pressure through a system of tubing or lateral lines and low volume emitters such as drip, drip lines, and bubblers with a flow rate measured in gallons per hour, and that is designed to apply small volumes of water slowly at or near the root zone of plants. This includes but is not limited to properly functioning drip irrigation systems and soaker hoses.

“New landscaping” means any lawn, plant or other landscaping planted after the effective date of this chapter.

“Water runoff” means water flowing away from the property in any gutter, ditch, or other manner over the surface of the ground due to excessive application of city water.

“Water customer” means the name of the water account holder who is listed in the city’s utility billing system.

13.36.030 Authorization

The city manager or his or her designee, upon the recommendation of the director, has the authority to develop administrative rules and regulations to implement this ordinance. The city manager or his or her designee, upon the recommendation of the director, is authorized and directed to implement the applicable provisions of this chapter upon the city manager and director’s determination that such implementation is necessary to protect the public welfare and safety.

13.36.040 Outdoor Conservation of Water.

- A. Beginning April 1st and extending until October 15th:

1. No person shall use, or cause to be used, any city water for landscape irrigation between the hours of 8:00 am and 7:00 pm, unless the director provides prior written consent to a different time limitation.

2. Residential and commercial locations bearing a street address ending in an odd number (1, 3, 5, 7, 9) shall be permitted to irrigate with city water only on Monday, Wednesday, and Friday, and locations bearing a street address ending in an even number (0, 2, 4, 6, 8) shall be permitted to irrigate with city water on Tuesday, Thursday, and Saturday, unless the director provides prior written consent to a different irrigation schedule.

3. No landscape irrigation shall be allowed on Sundays.

B. Beginning on October 16th until March 31st all residential and commercial/industrial locations shall be permitted to irrigate with city water one day per week only on Saturday or Sunday, and landscape irrigation shall be prohibited on any other days of the week, unless the director provides prior written consent to a different irrigation pattern.

C. The limitations specified in subsections A and B shall not apply to landscape irrigation using a low volume irrigation system, nor to the irrigation of container plants.

D. This section does not apply to the following categories of use:

1. Watering or irrigating by use of a hand-held bucket or similar container or a hose with an automatic shut-off nozzle;
2. Watering for very short periods of time for the express purpose of adjusting or repairing an irrigation system; or
3. Maintenance of turf at private schools, day cares, sports fields, playing fields, and other active recreation use areas within public parks, school grounds, and day care facilities provided that such irrigation does not exceed four days per week for the period of April 1 and October 15th and two days per week for the period of October 16 to March 31st.

13.36.050 New Landscaping.

Use of water for the irrigation of new landscape installed after the effective date of this ordinance cannot be more frequent than four times per week throughout the first year of establishment of the new landscape, provided that all of the following conditions are met:

1. The newly installed landscape replaces turf grass that was regularly maintained and irrigated;
2. The new landscape consists solely of drought tolerant plants and is consistent with requirements for drought tolerant landscaping established in Solano County Water Agency's Turf Replacement Program;

3. The new landscape is irrigated solely by a low volume irrigation system; and
4. Mulch is used around the new landscaping to minimize evaporative losses.

13.36.060 Violation – Enforcement.

It shall be a violation of this chapter for any water customer to violate any of the provisions of this chapter or of the administrative rules and regulations promulgated hereunder or to waste any water obtained from or through the distribution facilities of the city, or from any person to engage in wasting water as defined herein. The violation of each specific provision of this chapter, and each separate violation thereof, shall be deemed a separate offense, and shall be enforced accordingly.

A. Violations.

1. For the first violation within the preceding twelve calendar months, the director or his designee shall issue a written notice of the fact of such violation. No penalty will be imposed for first violations. The City recognizes there is a certain amount of public education necessary so first violations are warnings accompanied by city water conservation information.

2. For the second violation within the preceding twelve calendar months, the director or his designee shall impose a penalty of fifty dollars (\$50) against the water customer for the property where the violation occurred.

3. For the third violation within the preceding twelve calendar months, the director or his designee shall impose a penalty of one hundred dollars (\$100) against the water customer for the property where the violation occurred.

4. For a fourth and any subsequent violation within the preceding twelve calendar months, the director or his designee shall impose a penalty of two hundred fifty dollars (\$250) against the water customer for the property where the violation occurred.

Further, the director or his/her designee may:

- a. Install a flow restrictor on the property where the violation occurred or is occurring, for a length of time to be determined by the director or his/her designee, but in no event for more than one year; or
- b. Disconnect service on the property where the violation occurred or is occurring, for a length of time not to exceed sixty days in length.
- c. Reimbursement of City Expenses. If violations result in the installation of a flow restrictor, discontinuation of water service, or injunctive relief sought and obtained by the city pursuant to this chapter, the account holder whose service is affected shall reimburse the city for all costs incurred, including attorney's fees.

B. Time Period for Accounting Violations. Accrued violations will be based on acts of noncompliance occurring within the preceding twelve-month period. Each successive twenty-four-hour period of any violation or failure to comply shall be a separate and distinct violation.

C. Notice of Violation. For each violation, city staff designated by the public works director shall have the authority to enforce the provisions of this chapter and shall give notice as follows:

1. Written notice of violation may be in the form of a door hanger that is personally attached to the front door or a letter sent through the U.S. mail, first-class prepaid, to the address of the account holder as shown on current water billing records or personally served on the water customer. The notice will be considered to have been served upon the water customer either upon depositing the notice in the U.S. mail or when personally served, whichever methodology is utilized.

2. Written notice of violation shall include the date, time, and location of the violation; a description of the violation; provisions of the ordinance violated; a statement of the assessed penalty or other enforcement action; and the appeal procedures.

D. Right of Appeal. Any water customer provided a notice of violation in accordance with the provisions of this chapter shall have the right of appeal. A request for hearing must be made in writing, mailed or hand-delivered to the City of Benicia, 250 East L Street, Benicia CA 94510, Attn: public works director, and must be received by the director within ten calendar days from the date of personal or mailed service of the notice of violation. An appeal processing fee of \$100 (adjusted annually by the Consumer Price Index, All Urban Consumers for the San Francisco region) will be charged for staff's time.

E. Determination of Appeal. The appeal will be heard and determined by director or the designee of the director within ten calendar days. The determination of the director will be final and conclusive.

F. Payment of Penalties and Charges. Any penalty imposed pursuant to this section, and/or reimbursement of city expenses, shall be added to the account of the water customer for the property where the violation occurred and shall be due and payable on the same terms and subject to the same conditions as any other charge for regular water service.

G. Reimbursement from Tenants. Nothing in this chapter shall limit or be construed to limit the right of a water customer to seek reimbursement of a penalty or other costs from a tenant or other consumer.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member Strawbridge, seconded by Council Member Schwartzman, the foregoing Ordinance was introduced at a regular meeting of the City Council on the 1st day of July, 2014, and adopted at a regular meeting of the Council held on the 15th day of July 2014, by the following vote:

Ayes: **Council Members Campbell, Hughes, Schwartzman, Strawbridge, and Mayor Patterson**

Noes: **None**

Absent: **None**



Elizabeth Patterson, Mayor

Attest:



Lisa Wolfe, City Clerk

7-16-14
Date