

SANTA MONICA
Article 7 PUBLIC WORKS
Chapter 7.16 WATER CONSERVATION

7.16.010 Findings.

The City Council finds and declares:

(a) The State of California, including the City of Santa Monica, suffers from recurring severe drought conditions and even during non-drought periods water is a scarce resource throughout much of Southern California.

(b) An active water conservation program within the City of Santa Monica is essential to preserve water resources and to reduce the risk and severity of water shortages when drought or natural disaster occurs.

(c) Emergency water shortage conditions within the State of California and within the City of Santa Monica can arise on short notice as a result of drought or natural disaster. As a result, the residents of the City of Santa Monica live under an almost constant threat of water shortage. The enactment of a water reduction plan as an emergency measure is necessary in order to preserve the public peace, health and safety.

(d) An emergency water conservation plan is necessary to minimize the effect of the shortage of water within the City of Santa Monica. Such a plan will significantly reduce the long and short term consumption of water, thereby preserving available water for the future requirements of the City, while minimizing the hardship caused to the general public to the greatest extent possible. (Prior code § 7240; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.020 Water conservation requirements.

The following water conservation requirements shall apply to all persons within the City of Santa Monica:

(a) **Watering Days.** No lawn or landscape area shall be watered more frequently than twice during any seven-day period unless reclaimed water is utilized as permitted by law.

(b) **Watering Hours.** No lawn or landscape area shall be watered between the hours of ten a.m. and four p.m. on any day. This subsection shall not apply to any drip irrigation system approved by the Director of General Services or if the Director of General Services approves in writing an exemption for irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

(c) **Anti-Waste Measures.** No person shall:

(1) Wash, clean or clear with water walkways, patios, driveways, alleys or parking areas, whether paved or unpaved, except by use of a hand-held bucket or similar container or by use of a cleaning machine equipped to recycle any water used. In no event shall any water so used be permitted to run off into streets, alleys or storm drains;

(2) Wash or clean with water any vehicle, including, but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or unmotorized, except by use of a hand-held bucket or similar container or a hose equipped with a positive action quick release shutoff valve or nozzle. This subsection shall not apply to any commercial car washing facility which utilizes a recycling system to capture or reuse water;

(3) Excessively water any lawn or landscape area and water shall not be permitted to run off lawns or landscape areas onto any gutters, streets or alleys;

(4) Initially, fill any decorative fountains, ponds, lakes or displays unless:

(A) Prior to the issuance of a building permit, a fee is paid to the Director of General Services that is equal to the estimated first year water demand of the fountain, pond, lake or display, as determined by the Director of General Services, and

(B) The fountain, pond, lake or display is constructed with a water recycling system;

(5) Initially, fill any hot tub, spa or permanent swimming or wading pool with water unless:

(A) Prior to the issuance of a building permit a fee is paid to the Director of General Services that is equal to the estimated first year water demand of the hot tub, spa, permanent swimming or wading pool, as determined by the Director of General Services, and

(B) The hot tub, spa, permanent swimming or wading pool is constructed, installed or equipped with a cover to reduce water loss due to evaporation;

(6) Cause, permit or allow water to leak from any exterior or interior pipe, hose or plumbing fixture of any kind whatsoever.

(d) **Eating and Drinking Establishments.** All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person upon receipt of an express request.

(e) **Exceptions.** The provisions of this Section are not applicable to the uses of water which are necessary to protect public health and safety or for essential governmental services, such as police, fire and other similar emergency services. (Prior code § 7241; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.030 Water consumption limits.

(a) Effective April 1, 1992, the water consumption limits imposed by Section 7242 of Ordinances 1571CCS and 1616CCS shall no longer be enforced and shall be suspended.

(b) The City Council by resolution is authorized to require or reimpose reductions in the use of water if such reductions are necessary in order for the City to comply with water use restrictions imposed by federal, state or regional water agencies or to respond to emergency water shortage conditions. (Prior code § 7242; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.040 Excess water consumption surcharge and flow restriction.

Effective April 1, 1992, no customer of City supplied water shall be charged a surcharge for the excess use of water as authorized by Section 7243 of Ordinances 1571CCS and 1616CCS. Nothing in this Section is intended to effect in any way any of the surcharges, penalties, or remedies provided for in Section 7.16.070 of this Chapter. (Prior code § 7243; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.050 Water consumption limits and fees for new development.

Effective April 1, 1992, no person shall be issued a building permit for any development project unless:

- (a) The development will not affect or alter any plumbing fixture; or
- (b) The development involves a single family residence and is not a substantial remodel as defined in Santa Monica Municipal Code Section 9.04.02.030 and will not increase by more than fifty percent the square footage of the principal building; or
- (c) The development involves a multi-family residence and is not a substantial remodel as defined in Santa Monica Municipal Code Section 9.04.02.030 and will not increase the number of dwelling units on the property; or
- (d) The person pays in advance a fee to the Director of General Services sufficient to mitigate the estimated daily water consumption rate projected for the development, except that any person requesting a building permit for any low and moderate income housing development shall be required to pay a fee sufficient to mitigate only the estimated net increase in daily water consumption rate projected for the development. The City Council shall by resolution establish or amend any fee permitted by this Section. (Prior code § 7244; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.060 Appeals.

(a) Any customer assessed a surcharge or other penalty pursuant to this Chapter may claim that the surcharge or other penalty was not properly assessed in accordance with the provisions of this Chapter by requesting a hearing within the time and manner set forth in Section 6.16.030, provided that no hearing request shall be deemed timely filed and no hearing

shall be held unless, within the time period to request a hearing, the customer deposits with the City money in the amount of any unpaid bill, less the disputed surcharge or other penalty amount, due under this Chapter. If as a result of the hearing it is determined that the surcharge or other penalty was properly assessed, the customer shall pay any applicable surcharge. The decision of the Hearing Examiner shall be final except for judicial review and shall not be appealable to the City Council. The hearing officer's decision shall be reviewable by petition filed pursuant to California Code of Civil Procedure Section 1094.5, provided judicial review is sought not later than the ninetieth day following the date in which the decision becomes final in accordance with the provisions of Section 1.16.010 of this Code and Code of Civil Procedure Section 1094.6.

(b) It shall not be a defense to the assessment of any surcharge or other penalty or to any other civil enforcement action provided for under this Section for a customer to assert that any violation of this Chapter was caused by the actions of a person other than the customer except if the violation was caused by the criminal or negligent action of a person who was not an agent, employee or family member of the customer.

(c) Any surcharge or other penalty provided for hereunder may be added to subsequent water billings until paid and when collected by the Water Division shall be deposited in the water operating fund. (Prior code § 7245; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.070 Penalties and remedies.

(a) The violation of this Chapter shall constitute an infraction punishable by a fine not to exceed one hundred dollars. Each day that a violation occurs shall constitute a separate offense.

(b) In addition to any other surcharge or penalty as may be provided for in this Chapter, any customer who fails to comply with any provision of Section 7.16.020 may be assessed a surcharge of twenty dollars or twenty percent of the customer's total water bill for the most recent billing period, whichever is greater.

(c) Pursuant to Penal Code Section 836.5, the Conservation Coordinator or Water Conservation Inspector may arrest without a warrant any person whenever the Coordinator or Inspector has reasonable cause to believe that the person to be arrested has committed an infraction in his or her presence which is a violation of this Chapter. In any case in which a person is arrested pursuant to this Section, and the person arrested does not demand to be taken before a magistrate, the Conservation Coordinator or Water Conservation Inspector shall prepare a written notice to appear and shall release the arrested person on his or her promise to appear as provided for in Section 3.36.070 of this Code.

(d) **Wilful Misrepresentation.** It shall constitute a misdemeanor punishable by a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed six months or both, for any person to knowingly misrepresent any material fact to any employee, agent or

representative of the City in any attempt or effort to circumvent or otherwise diminish the effectiveness of any of the requirements imposed by any part of this Chapter.

(e) A violation of any provision of this Chapter is declared to be a public nuisance and the City Attorney is authorized to abate such violation(s) by means of a civil action.

(f) The penalties and remedies established by the Chapter shall be cumulative. (Prior code § 7246; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.080 Relief from compliance.

The Director of General Services or his or her designated representatives may, in writing, grant variances to persons who apply on forms supplied by the City for:

(a) Usages of water prohibited by Section 7.16.020 if it is found that a variance is necessary to prevent an emergency condition relating to health and safety, and if the person seeking a variance has demonstrated that he or she has implemented water conservation measures in some other manner that achieves the objectives of this Chapter. No variance may be granted for the filling of any fountain, pond, lake, display, hot tub, spa or permanent swimming or wading pool, unless the filling occurs as the result of performing necessary leak repairs and unless the other provisions of this Section are met.

(b) Any customer who has been assessed a surcharge pursuant to this Chapter may request a variance pursuant to subsection (a) of this Section but must first pay in full the amount of any unpaid bill, less the disputed surcharge amount, prior to filing a variance application. The request for a variance must be filed within the time period established by Section 6.16.030. If the variance application is denied in whole or in part the customer shall be assessed the applicable surcharge.

(c) No variance shall be granted to any customer unless the customer has demonstrated that he or she has already achieved the maximum practical reduction in water consumption as can be achieved by the affected property or business. Any variance granted shall be based upon the water consumption rates of similar water users, properties or businesses.

(d) Any person denied a variance in whole or in part may appeal the denial to a three-person variance review board established by the City Manager. Any such appeal shall be made in writing within ten days of the denial on a form supplied by the City and shall be accompanied by the payment of any applicable fee. The variance review board may approve, modify or deny any variance request and may uphold, modify or nullify any surcharge. The decision of the variance review board shall be final except for judicial review in accordance with the provisions of Section 7.16.060 of this Chapter and shall not be appealable to the City Council. The variance appeal board shall establish procedures for the processing and consideration of appeals. (Prior code § 7247; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.090 City of Santa Monica voluntary water conservation plan.

In addition to the water conservation requirements established by this Chapter, the City Manager or his or her designate is authorized to develop and promulgate a voluntary water conservation plan which shall be directed to achieve at least a ten percent reduction in water consumption from 1990 levels within the City of Santa Monica. (Prior code § 7248; added by Ord. No. 1619CCS § 1, adopted 4/14/92)

7.16.100 Fees.

The City Council may, by resolution, establish fees for the filing, processing or approval of any application, permit or variance provided for under this Chapter. (Prior code § 7249; added by Ord. No. 1619CCS § 1, adopted 4/14/92)